

From: [Elzinga Stephen](#)
To: [Borden John F](#)
Cc: [Rep Smith G](#); [Sen Whitsett](#); [Rep Heard](#); [Tedrow Chase](#)
Subject: HB 2960 Amendment
Date: Wednesday, May 06, 2015 11:11:26 AM
Attachments: [HB2960 A10 2015 Regular Session.pdf](#)

Hi John,

Please make this HB 2960 amendment publically available on OLIS for the hearing this afternoon in the W&M General Government Sub. There may be testimony. The –A10 moves future public employees into a market-based fair retirement plan.

Thank you,
Steve

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**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2960**

1 On page 1 of the printed A-engrossed bill, line 2, after the semicolon in-
2 sert “creating new provisions; amending ORS 106.340, 169.810, 173.051,
3 192.502, 196.165, 237.620, 237.650, 238.105, 238.115, 238.265, 238.445, 238.447,
4 238.455, 238.460, 238.465, 238.630, 238.645, 238.650, 238.700, 238.705, 238.715,
5 243.800, 243.830, 268.240, 338.135, 341.290, 341.551, 351.704, 352.138, 353.117,
6 377.836, 396.330, 410.614, 576.306, 741.201 and 777.775; repealing ORS
7 238.750;”.

8 Delete lines 4 through 21 and delete pages 2 through 6 and insert:
9

10 **“DEFINITIONS**

11
12 **“SECTION 1. For the purposes of sections 1 to 20 of this 2015 Act:**

13 **“(1) ‘Employee’ means an employee as described in ORS 238.005.**

14 **“(2) ‘Fair Plan’ means the Fair Retirement Plan established under**
15 **sections 1 to 20 of this 2015 Act.**

16 **“(3) ‘Fair Plan member’ means a person who has established mem-**
17 **bership in the Fair Plan under section 6 or 17 of this 2015 Act.**

18 **“(4) ‘Firefighter’ means:**

19 **“(a) A person employed by a local government, as defined in ORS**
20 **174.116, whose primary job duties include the fighting of fires;**

21 **“(b) The State Fire Marshal, the chief deputy state fire marshal and**
22 **deputy state fire marshals; and**

1 “(c) An employee of the State Forestry Department who is certified
2 by the State Forester as a professional wildland firefighter and whose
3 primary duties include the abatement of uncontrolled fires as de-
4 scribed in ORS 477.064.

5 “(5) ‘Participating public employer’ means a public employer as de-
6 fined in ORS 238.005 that participates in the system.

7 “(6) ‘Police officer’ means:

8 “(a) Employees of the Department of State Police who are classified
9 as police officers by the Superintendent of State Police.

10 “(b) Sheriffs and those deputy sheriffs or other employees of a
11 sheriff whose duties, as classified by the sheriff, are the regular duties
12 of police officers or corrections officers.

13 “(c) Police chiefs and police personnel of a city who are classified
14 as police officers by the city council or other governing body of the
15 city.

16 “(d) Corrections officers as defined in ORS 181.610.

17 “(e) Employees at youth correction facilities, as defined in ORS
18 420.005, whose primary job description involves the custody, control,
19 treatment, investigation or supervision of juveniles placed in those
20 facilities.

21
22 **“FAIR RETIREMENT PLAN**
23

24 **“SECTION 2. (1) The Fair Retirement Plan is established. Not-**
25 **withstanding any provision of ORS chapter 238 or 238A, any person**
26 **who is employed by a participating public employer on or after July**
27 **1, 2016, and who has not established membership in the Public Em-**
28 **ployees Retirement System before July 1, 2016, is entitled to receive**
29 **only the benefits provided under the Fair Plan for periods of service**
30 **with participating public employers on and after July 1, 2016, and has**

1 no right or claim to any benefit under ORS chapter 238 or 238A, except
2 as specifically provided by sections 1 to 20 of this 2015 Act. A person
3 who establishes membership in the system before July 1, 2016, is enti-
4 tled to receive the benefits provided by ORS chapter 238 or 238A.

5 “(2) A person establishes membership in the system before July 1,
6 2016, for the purposes of this section if:

7 “(a) The person is a member of the system, or a judge member of
8 the system, on June 30, 2016; or

9 “(b) The person performed any period of service for a participating
10 public employer before July 1, 2016, that is credited to the six-month
11 period of employment required of an employee under ORS 238A.100
12 before an employee may become a member of the system.

13 “(3) Except as provided in sections 1 to 20 of this 2015 Act, ORS
14 chapters 238 and 238A do not apply to the Fair Plan.

15 “(4) The provisions of this section do not apply to a person elected
16 or appointed as a member of the Legislative Assembly, as a justice of
17 the Supreme Court or as a judge of the Court of Appeals, the Oregon
18 Tax Court or a circuit court.

19
20 “ADMINISTRATION

21
22 “SECTION 3. Fair Retirement Plan administered by Public Em-
23 ployees Retirement Board. (1) The Fair Retirement Plan is part of the
24 Public Employees Retirement System and is administered by the Pub-
25 lic Employees Retirement Board.

26 “(2) The board shall contract with a private sector firm for the
27 recordkeeping and customer service functions of the Fair Plan. The
28 board shall seek a firm that has economical pricing structures and the
29 experience, knowledge and facilities to properly perform the functions
30 specified in this subsection.

1 “(3) ORS 238.035, 238.156, 238.445, 238.600, 238.601, 238.615, 238.618,
2 238.630, 238.635, 238.640, 238.645, 238.650, 238.655, 238.700, 238.705, 238.710
3 and 238.715 apply to the Fair Plan.

4 “(4) Amounts contributed by or on behalf of Fair Plan members
5 shall be held separate and distinct from the General Fund and the
6 Public Employees Retirement Fund, but may be commingled with the
7 assets of the Public Employees Retirement Fund for investment pur-
8 poses.

9 “SECTION 4. Administrative costs of Fair Retirement Plan. (1) The
10 Public Employees Retirement Board shall implement and administer
11 sections 1 to 20 of this 2015 Act so that:

12 “(a) No expense is incurred by participating public employers or by
13 the Public Employees Retirement Fund for the implementation and
14 administration of the Fair Retirement Plan; and

15 “(b) Participating public employers and the Public Employees Re-
16 tirement System incur no liabilities other than those liabilities that
17 are imposed under sections 1 to 20 of this 2015 Act or other law.

18 “(2) The system may assess a charge against the member account
19 of a Fair Plan member. Funds collected pursuant to the charge are
20 continuously appropriated to the board and may be used only to cover
21 the costs incurred by the system to implement and administer the Fair
22 Plan.

23
24 **“PARTICIPATION BY PUBLIC EMPLOYERS**

25
26 “SECTION 5. Participation generally. (1) All public employers par-
27 ticipating in the Public Employees Retirement System on July 1, 2016:

28 “(a) Shall continue to be participating public employers for the
29 purposes of the Fair Retirement Plan; and

30 “(b) Shall provide benefits under the Fair Plan for Fair Plan mem-

1 **bers.**

2 **“(2) Any participating public employer that provided retirement**
3 **benefits under ORS chapter 238 or 238A for some, but not all, of the**
4 **employees of the participating public employer on June 30, 2016, need**
5 **not provide benefits under the Fair Plan for any class of employees**
6 **who were not members of the system on June 30, 2016.**

7 **“(3) Any public employer that is not a participating public employer**
8 **on June 30, 2016, may become a participating public employer under**
9 **the Fair Plan. A public employer may become a participating public**
10 **employer under this subsection only for the purposes of service per-**
11 **formed by employees of the public employer on or after the date the**
12 **public employer elects to participate in the Fair Plan.**

13

14

“MEMBERSHIP

15

16 **“SECTION 6. Establishing membership in Fair Retirement Plan;**
17 **member account. (1) Any person who is employed by a participating**
18 **public employer on or after July 1, 2016, and who has not established**
19 **membership in the Public Employees Retirement System before July**
20 **1, 2016, as described in section 2 of this 2015 Act, becomes a member**
21 **of the Fair Retirement Plan after completing six full calendar months**
22 **of employment, unless the employee elects not to become a Fair Plan**
23 **member. The six-month probationary period may not be interrupted**
24 **by more than 30 consecutive working days.**

25 **“(2) Unless the employee elects not to become a member, upon**
26 **completion of the six-month probationary period required by this sec-**
27 **tion, an employee shall become a member of the Fair Plan on the first**
28 **day of the next full month following the six-month period.**

29 **“(3) Upon a person’s becoming a Fair Plan member under this sec-**
30 **tion, the Public Employees Retirement Board shall create a member**

1 account for the person. The member account shall consist of employee
2 contributions made under section 7 of this 2015 Act and employer
3 contributions made under section 8 of this 2015 Act, adjusted to reflect
4 any earnings or losses on those contributions.

5
6 **“CONTRIBUTIONS**

7
8 **“SECTION 7. Employee contribution. (1) A Fair Plan member may**
9 **elect to make an employee contribution to the Fair Retirement Plan**
10 **equal to a specific percentage of the Fair Plan member’s salary. The**
11 **percentage may not be more than the amount allowed by the federal**
12 **law governing the Fair Plan’s tax qualification and must be a whole**
13 **number.**

14 **“(2) A participating public employer may not assume or pay the**
15 **employee contribution provided for in this section, except that a par-**
16 **ticipating public employer may structure the compensation of the**
17 **employee in a manner that allows a Fair Plan member who is em-**
18 **ployed by the employer to make the employee contribution on a pretax**
19 **basis.**

20 **“SECTION 8. Employer contributions. (1) A participating public**
21 **employer must contribute to the Fair Retirement Plan a base amount**
22 **equal to three percent of the salary of each Fair Plan member em-**
23 **ployed by the employer. The base amount must be contributed for all**
24 **Fair Plan members, without regard to whether the employee makes**
25 **any contributions under section 7 of this 2015 Act.**

26 **“(2) In addition to the base amount required under subsection (1)**
27 **of this section, for a Fair Plan member who is not a police officer or**
28 **firefighter, a participating public employer must make contributions**
29 **equal to one percent of a Fair Plan member’s salary for every two**
30 **percent of salary contributed by the Fair Plan member under section**

1 7 of this 2015 Act. In no event may the total contribution by the em-
2 ployer for a Fair Plan member who is not a police officer or firefighter
3 exceed an amount equal to six percent of the Fair Plan member's
4 salary.

5 “(3) In addition to the base amount required under subsection (1)
6 of this section, for a Fair Plan member who is a police officer or fire-
7 fighter, a participating public employer who employs the Fair Plan
8 member as a police officer or firefighter must make contributions
9 equal to one and one-third percent of the Fair Plan member's salary
10 for every two percent of salary contributed by the Fair Plan member
11 under section 7 of this 2015 Act. However, if a Fair Plan member who
12 is a police officer or firefighter contributes six percent of the Fair Plan
13 member's salary, the total employer contribution shall be an amount
14 equal to 7.15 percent of the Fair Plan member's salary. In no event
15 may the total contribution by the employer for a Fair Plan member
16 who is a police officer or firefighter exceed an amount equal to 7.15
17 percent of the Fair Plan member's salary.

18 “SECTION 9. Salary defined. (1) For the purpose of computing em-
19 ployer and employee contributions under sections 7 and 8 of this 2015
20 Act, ‘salary’ means the remuneration paid to a Fair Plan member in
21 return for service to the participating public employer, including
22 remuneration in the form of living quarters, board or other items of
23 value, to the extent the remuneration is includable in the employee's
24 taxable income under Oregon law. ‘Salary’ includes the additional
25 amounts specified in subsection (2) of this section, but does not in-
26 clude the amounts specified in subsection (3) of this section, regardless
27 of whether those amounts are includable in taxable income.

28 “(2) For the purpose of computing employer and employee contri-
29 butions under sections 7 and 8 of this 2015 Act, ‘salary’ includes the
30 following amounts:

1 “(a) Payments of employee and employer money into a deferred
2 compensation plan that are made at the election of the employee.

3 “(b) Contributions to a tax-sheltered or deferred annuity that are
4 made at the election of the employee.

5 “(c) Any amount that is contributed to a cafeteria plan or qualified
6 transportation fringe benefit plan by the employer at the election of
7 the employee and that is not includable in the taxable income of the
8 employee by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on the ef-
9 fective date of this 2015 Act.

10 “(d) Retroactive payments made to an employee to correct a clerical
11 error, pursuant to an award by a court or by order of or pursuant to
12 a conciliation agreement with an administrative agency charged with
13 enforcing federal or state law protecting the employee’s rights to em-
14 ployment or wages, which shall be allocated to and deemed paid in the
15 periods in which the work was done or in which the work would have
16 been done.

17 “(3) For the purpose of computing employer and employee contri-
18 butions under sections 7 and 8 of this 2015 Act, ‘salary’ does not in-
19 clude the following amounts:

20 “(a) Money paid for overtime or bonuses.

21 “(b) Travel expenses or any other expenses incidental to an
22 employer’s business that are reimbursed by the employer.

23 “(c) Payments made on account of an employee’s death.

24 “(d) Any lump sum payment for accumulated unused sick leave,
25 vacation leave or other paid leave.

26 “(e) Any accelerated payment of an employment contract for a fu-
27 ture period or any advance against future wages.

28 “(f) Any retirement incentive, retirement severance pay, retirement
29 bonus or retirement gratuitous payment.

30 “(g) Payment for a leave of absence after the date the employer and

1 employee have agreed that no future service will be performed.

2 “(h) Payments for instructional services rendered to public univer-
3 sities listed in ORS 352.002 or the Oregon Health and Science Univer-
4 sity when those services are in excess of full-time employment subject
5 to sections 1 to 20 of this 2015 Act. A person employed under a contract
6 for less than 12 months is subject to this paragraph only for the
7 months covered by the contract.

8 “(i) Any amount in excess of \$200,000 for a calendar year. If any
9 period over which salary is determined is less than 12 months, the
10 \$200,000 limitation for that period shall be multiplied by a fraction, the
11 numerator of which is the number of months in the determination
12 period and the denominator of which is 12. The Public Employees Re-
13 tirement Board shall adopt rules adjusting this dollar limit to incor-
14 porate adjustments authorized by the Internal Revenue Service.

15 “SECTION 10. Collective bargaining agreements. Notwithstanding
16 section 7 of this 2015 Act, if a participating public employer is paying
17 employee contributions for employees of the employer pursuant to
18 ORS 238.205 or 238A.335 under a collective bargaining agreement in
19 effect on July 1, 2016, the employer shall continue to make those con-
20 tributions under the Fair Retirement Plan until such time as the term
21 of the agreement expires. Upon the expiration of the collective bar-
22 gaining agreement, the participating public employer may not there-
23 after ‘pick-up,’ assume or pay the employee contributions.

24

25

“VESTING

26

27 “SECTION 11. Vesting; loans. (1) A Fair Plan member vests in em-
28 ployee contributions when the contributions are made.

29 “(2) A Fair Plan member vests in employer contributions when
30 employer contributions have been made on behalf of the member in

1 each of 54 consecutive months.

2 “(3) The Public Employees Retirement Board shall establish a
3 mechanism under which a Fair Plan member may borrow amounts
4 from the member account established under section 6 of this 2015 Act.
5 A member may borrow only from amounts in which the member has
6 become vested under this section. The board shall limit loans to terms
7 and conditions allowed under the tax qualification of the Fair Retirement
8 Plan.

9

10 “INVESTMENT OF MONEYS IN MEMBER ACCOUNTS

11

12 “SECTION 12. Investment program. (1) The Oregon Investment
13 Council shall establish a program for investment of moneys in Fair
14 Plan member accounts. The program shall include policies and procedures
15 for the investment of moneys in the accounts. The program and
16 all investments of moneys under the program are subject to the provisions
17 of ORS 293.701 to 293.820.

18 “(2) The council shall provide to the Public Employees Retirement
19 Board a description, set forth in the council’s policies and procedures,
20 of the investment options for moneys in Fair Plan member accounts,
21 the applicable benchmark for each option and a description of the
22 characteristics of each benchmark. The council shall provide at least
23 nine different investment options with a range of investment risks.

24 “(3) The provisions of ORS chapter 59 that require registration of
25 securities do not apply to any share, participation or other interest
26 under the investment program established under this section. The
27 provisions of ORS chapter 59 that require licensing of certain persons
28 as broker-dealers or as investment advisers do not apply to any of the
29 following persons or entities for the purposes of implementing and
30 administering the investment program established under this section:

1 “(a) The Oregon Investment Council.

2 “(b) The Public Employees Retirement Board.

3 “(c) The Public Employees Retirement System.

4 “(d) The State Treasurer.

5 “(e) Any officer or employee of the persons or entities described in
6 paragraphs (a) to (d) of this subsection.

7 “SECTION 13. Self-direction of investments. A Fair Plan member
8 may elect any investment option offered under the investment pro-
9 gram established under section 12 of this 2015 Act for all or part of the
10 moneys in a member account. The Public Employees Retirement Board
11 by rule shall provide for the manner in which changes in investment
12 options may be made by a Fair Plan member.

13
14 “WITHDRAWAL OF MEMBER ACCOUNT

15
16 “SECTION 14. Account may be withdrawn by inactive member at
17 any time after leaving public employment. (1) An inactive Fair Plan
18 member may withdraw the member’s account at any time.

19 “(2) Withdrawal of a member account under this section cancels all
20 membership rights in the Fair Retirement Plan.

21 “(3) If a Fair Plan member withdraws the member account and is
22 subsequently reemployed by a participating public employer, the per-
23 son may reestablish membership under the Fair Plan only for the
24 purposes of service performed after the person is reemployed.

25 “(4) A Fair Plan member is inactive for the purposes of this section
26 if the member is separated from all service with participating public
27 employers and with employers that are treated as part of a partic-
28 ipating public employer’s controlled group under the federal laws and
29 rules governing the status of the Fair Plan as a qualified governmental
30 retirement plan and trust.

1 "DEATH BENEFIT

2
3 **"SECTION 15. Death benefit. (1) If a Fair Plan member dies before**
4 **retiring, the Public Employees Retirement Board shall pay all money**
5 **credited at the time of death to the member account of the member**
6 **in which the member has become vested under section 11 of this 2015**
7 **Act to one or more beneficiaries designated by the member. A Fair**
8 **Plan member may designate as a beneficiary any person, including the**
9 **personal representative for the estate of the member or a trustee**
10 **named by the member. The withdrawal of a member's account under**
11 **section 14 of this 2015 Act invalidates any designation of a beneficiary**
12 **under this section.**

13 **"(2) If a Fair Plan member dies before retiring and has not desig-**
14 **nated a beneficiary under subsection (1) of this section, the board shall**
15 **pay all money credited at the time of death to the member account**
16 **of the member in which the member has become vested under section**
17 **11 of this 2015 Act to the personal representative appointed for the**
18 **estate of the deceased member. If an affidavit has been filed under**
19 **ORS 114.505 to 114.560 and the amount of payment does not exceed the**
20 **maximum amount of personal property for which an affidavit may be**
21 **filed under ORS 114.505 to 114.560, the board shall pay the amount to**
22 **the person who filed the affidavit.**

23 **"(3) If a Fair Plan member dies before retiring and has designated**
24 **a beneficiary under subsection (1) of this section, but the beneficiary**
25 **dies before the member or dies before distribution is made under this**
26 **section, the board shall pay the amount of money that would other-**
27 **wise have been paid to the beneficiary to the personal representative**
28 **appointed for the estate of the deceased beneficiary. If an affidavit has**
29 **been filed under ORS 114.505 to 114.560 and the amount of money that**
30 **would have been paid to the beneficiary does not exceed the maximum**

1 amount of personal property for which an affidavit may be filed under
2 ORS 114.505 to 114.560, the board shall pay the amount to the person
3 who filed the affidavit on behalf of the estate of the beneficiary.

4 “(4) Payment by the board of a death benefit in the manner pro-
5 vided by this section completely discharges the board and the Public
6 Employees Retirement System from any liability for amounts owing
7 by reason of the death of a Fair Plan member.

8
9 **“BENEFITS UPON RETIREMENT**

10
11 **“SECTION 16. Annuities and other payout options. The Public Em-
12 ployees Retirement Board shall by rule provide for annuities and other
13 payout options for retired Fair Plan members. Annuities offered by the
14 board may be fixed or variable. The board may not offer any annuity
15 or other payout option that would require that a participating public
16 employer make any contribution beyond the contributions required by
17 section 8 of this 2015 Act. The board may not allow a Fair Plan mem-
18 ber to receive an annuity or other payout before the member reaches
19 the minimum retirement age provided for in the Fair Retirement
20 Plan’s tax qualification. The board shall ensure that minimum dis-
21 tribution requirements imposed under the Fair Plan’s tax qualification
22 are met.**

23
24 **“CONVERSION TO FAIR RETIREMENT PLAN**

25
26 **“SECTION 17. (1) Any employee who establishes membership in the
27 Public Employees Retirement System before July 1, 2016, as described
28 in section 2 of this 2015 Act, and who is an active member, as defined
29 in ORS 238.005 or 238A.005, may elect to convert the employee’s re-
30 tirement benefit to the Fair Retirement Plan. Upon conversion, the**

1 amounts in the regular account established for the employee under
2 ORS 238.250, along with a matching amount funded by employer con-
3 tributions, and any amounts in the variable account established for
4 the employee under ORS 238.260 shall be transferred to a member ac-
5 count established for the employee under section 6 of this 2015 Act.

6 “(2) If the Public Employees Retirement Board is informed by the
7 Oregon Investment Council that the number of conversions elected
8 under this section could negatively affect the Public Employees Re-
9 tirement Fund, the board may require that amounts be transferred
10 under this section in not more than five annual installments. Interest
11 shall be paid on the amounts not immediately transferred at a rate
12 established by the board.

13
14 **“BENEFIT INCREASES**

15
16 **“SECTION 18. Local government approval of benefit increases. (1)**
17 **Any benefit increase that is described in subsection (2) of this section**
18 **and that is provided for by laws that become effective on or after the**
19 **effective date of this 2015 Act applies to participating public employers**
20 **other than the state only if the benefit increase is approved in writing**
21 **by the participating public employer. Written approval of the benefit**
22 **increase must be delivered to the Public Employees Retirement Board**
23 **within three months after the session of the Legislative Assembly that**
24 **enacted the benefit increase adjourns sine die. If the benefit increase**
25 **is approved in the manner provided by this section, the benefit in-**
26 **crease becomes operative on January 1 of the next calendar year.**

27 “(2) The provisions of this section apply to any change to the ben-
28 efits provided under sections 1 to 20 of this 2015 Act that is the result
29 of laws enacted during a single legislative session, excluding any
30 change that is made solely to maintain the status of the Fair Retire-

1 **ment Plan as a tax-qualified governmental plan, if the change results**
2 **in an increase in the total liability for benefits under the Fair Plan,**
3 **whether funded or not funded, that is in excess of one-tenth of one**
4 **percent.**

5 **“SECTION 19. Application of benefit increases to legislators. Any**
6 **law enacted after January 1, 2017, that has the effect of increasing the**
7 **total liability for benefits under sections 1 to 20 of this 2015 Act that**
8 **is in excess of one-tenth of one percent does not apply to service by**
9 **members of the Legislative Assembly that entitles those members to**
10 **benefits under sections 1 to 20 of this 2015 Act.**

11

12

“CONTRACT RIGHTS

13

14 **“SECTION 20. Except as provided in section 18 of this 2015 Act,**
15 **nothing in sections 1 to 20 of this 2015 Act prevents the Legislative**
16 **Assembly or the Public Employees Retirement Board from changing**
17 **or terminating the retirement benefits payable to persons who become**
18 **Fair Plan members on or after July 1, 2016, as described in section 2**
19 **of this 2015 Act, as long as the change or termination applies only to**
20 **benefits accruing on or after the date the change or termination is**
21 **effective.**

22

23

“TAX QUALIFICATION

24

25 **“SECTION 21. (1) Except as provided in this section, sections 1 to**
26 **20 and 22 of this 2015 Act, the amendments to ORS 106.340, 169.810,**
27 **173.051, 192.502, 196.165, 237.620, 237.650, 238.105, 238.115, 238.265, 238.445,**
28 **238.455, 238.465, 238.630, 238.645, 238.650, 238.700, 238.705, 238.715, 243.800,**
29 **243.830, 268.240, 338.135, 341.290, 351.704, 353.117, 377.836, 396.330, 410.614,**
30 **576.306, 741.201 and 777.775 by sections 23 to 55 of this 2015 Act and the**

1 repeal of ORS 238.750 by section 56 of this 2015 Act become operative
2 on July 1, 2016.

3 “(2) As soon as possible after the effective date of this 2015 Act, the
4 Public Employees Retirement Board shall submit the provisions of
5 sections 1 to 20 of this 2015 Act to the Internal Revenue Service and
6 seek approval of sections 1 to 20 of this 2015 Act as a qualified gov-
7 ernmental retirement plan and trust under the Internal Revenue Code.

8 “(3) As soon as possible after the effective date of this 2015 Act, the
9 board shall adopt all rules necessary for the implementation and op-
10 eration of the Fair Retirement Plan.

11 **“SECTION 22.** (1) Subject to the provisions of this section, until
12 June 30, 2018, the Public Employees Retirement System may use assets
13 of the Public Employees Retirement Fund that are unrelated to
14 sections 1 to 20 of this 2015 Act to pay the administrative costs of the
15 Fair Retirement Plan.

16 “(2) Before January 1, 2023, the Public Employees Retirement Board
17 shall transfer from accounts established under the Fair Retirement
18 Plan the amount used under subsection (1) of this section, with inter-
19 est, to accounts in the fund established to provide retirement benefits
20 under ORS chapter 238. The rate of interest must be at least equal to
21 the rate that the moneys would have earned had the moneys remained
22 invested in the fund established to provide retirement benefits under
23 ORS chapter 238, and in no event less than two percent per annum.

24 “(3) Until such time as all moneys and interest are repaid under
25 subsection (2) of this section, beneficiaries of the fund established to
26 provide retirement benefits under ORS chapter 238 have a security
27 interest in the assets of the Fair Retirement Plan equal to the amount
28 used under subsection (1) of this section and the interest required
29 under subsection (2) of this section. The security interest may be
30 foreclosed in an action at law.

1 **“(4) If the board fails to transfer any amount required under sub-**
2 **section (2) of this section before January 1, 2023, a person entitled to**
3 **benefits under ORS chapter 238 may bring a mandamus action to**
4 **compel the board to make the transfer and to perform all acts within**
5 **the authority of the board to collect employer or employee contribu-**
6 **tions to the Fair Retirement Plan necessary to fund the transfer.**

7 **“(5) In determining the amount of employer contributions necessary**
8 **under the Fair Retirement Plan, the board shall include any amounts**
9 **required to be transferred under subsection (2) of this section that are**
10 **attributable to paying the costs of administering the Fair Retirement**
11 **Plan.**

12 **“(6) The board shall deduct from the member accounts established**
13 **under section 6 of this 2015 Act the amounts to be transferred under**
14 **subsection (2) of this section that are attributable to paying the costs**
15 **of administering the Fair Retirement Plan. The deduction must be a**
16 **uniform percentage of the member accounts.**

17
18 **“CONFORMING AMENDMENTS**
19

20 **“SECTION 23. ORS 106.340 is amended to read:**

21 **“106.340. (1) Any privilege, immunity, right or benefit granted by statute,**
22 **administrative or court rule, policy, common law or any other law to an in-**
23 **dividual because the individual is or was married, or because the individual**
24 **is or was an in-law in a specified way to another individual, is granted on**
25 **equivalent terms, substantive and procedural, to an individual because the**
26 **individual is or was in a domestic partnership or because the individual is**
27 **or was, based on a domestic partnership, related in a specified way to an-**
28 **other individual.**

29 **“(2) Any responsibility imposed by statute, administrative or court rule,**
30 **policy, common law or any other law on an individual because the individual**

1 is or was married, or because the individual is or was an in-law in a specified
2 way to another individual, is imposed on equivalent terms, substantive and
3 procedural, on an individual because the individual is or was in a domestic
4 partnership or because the individual is or was, based on a domestic part-
5 nership, related in a specified way to another individual.

6 “(3) Any privilege, immunity, right, benefit or responsibility granted or
7 imposed by statute, administrative or court rule, policy, common law or any
8 other law to or on a spouse with respect to a child of either of the spouses
9 is granted or imposed on equivalent terms, substantive and procedural, to
10 or on a partner with respect to a child of either of the partners.

11 “(4) Any privilege, immunity, right, benefit or responsibility granted or
12 imposed by statute, administrative or court rule, policy, common law or any
13 other law to or on a former or surviving spouse with respect to a child of
14 either of the spouses is granted or imposed on equivalent terms, substantive
15 and procedural, to or on a former or surviving partner with respect to a child
16 of either of the partners.

17 “(5) Many of the laws of this state are intertwined with federal law, and
18 the Legislative Assembly recognizes that it does not have the jurisdiction to
19 control federal laws or the privileges, immunities, rights, benefits and re-
20 sponsibilities related to federal laws.

21 “(6) ORS 106.300 to 106.340 do not require or permit the extension of any
22 benefit under ORS chapter 238 or 238A **or sections 1 to 20 of this 2015**
23 **Act**, or under any other retirement, deferred compensation or other employee
24 benefit plan, if the plan administrator reasonably concludes that the exten-
25 sion of benefits would conflict with a condition for tax qualification of the
26 plan, or a condition for other favorable tax treatment of the plan, under the
27 Internal Revenue Code or regulations adopted under the Internal Revenue
28 Code.

29 “(7) ORS 106.300 to 106.340 do not require the extension of any benefit
30 under any employee benefit plan that is subject to federal regulation under

1 the Employee Retirement Income Security Act of 1974.

2 “(8) For purposes of administering Oregon tax laws, partners in a domes-
3 tic partnership, surviving partners in a domestic partnership and the chil-
4 dren of partners in a domestic partnership have the same privileges,
5 immunities, rights, benefits and responsibilities as are granted to or imposed
6 on spouses in a marriage, surviving spouses and their children.

7 **“SECTION 24.** ORS 169.810 is amended to read:

8 “169.810. (1) Assumption by the regional correctional facility of those
9 custodial duties formerly performed by a county or city jail constitutes an
10 assumption of duties by a public employer subject to ORS 236.610 to 236.640.

11 “(2) An employee who transfers from employment at a county or city jail
12 to employment at a regional correctional facility operated by the county or
13 city by which the employee has been employed shall be accorded the follow-
14 ing rights:

15 “(a) If a trial or probationary service period is required for employment
16 at the county or city jail, the period of county or city employment of the
17 employee shall apply to that requirement.

18 “(b) An employee who transfers from employment at a county or city jail
19 to employment at the regional correctional facility shall retain accumulated
20 unused sick leave with pay and the accumulated unused vacation with pay
21 to which the employee was entitled under county or city employment on the
22 day before the transfer that are supported by written records of accumulation
23 and use pursuant to a plan formally adopted and applicable to the employee
24 under county or city employment.

25 “(c) Notwithstanding any other provision of law applicable to a retire-
26 ment system for county employees or city employees, an employee who
27 transfers from employment at a county or city jail to employment at the re-
28 gional correctional facility who was participating in a retirement system
29 under county or city employment may elect, not later than the first day of
30 the month following the month in which the employee transfers, to continue

1 under the retirement system in which participating and not to become, if
2 eligible, a member of another retirement system. The election shall be made
3 in writing and shall be submitted to the regional correctional facility ad-
4 ministrator, the Public Employees Retirement Board and the governing body
5 of the counties and cities that operate the regional correctional facility.

6 “(d) If an employee elects to continue under the retirement system in
7 which participating under county or city employment, the employee shall
8 continue to make required contributions to that system and the adminis-
9 tration of the regional correctional facility shall make contributions on be-
10 half of the employee required of an employer participating in that system.

11 “(e) If an employee fails to elect to continue under the retirement system
12 in which participating under county or city employment as provided in par-
13 agraph (c) of this subsection or was not participating in a retirement system
14 under county or city employment, the employee shall become, if eligible, a
15 member of the Public Employees Retirement System. If the employee is eli-
16 gible to become a member of the Public Employees Retirement System, the
17 period of continuous service of the employee under county or city employ-
18 ment immediately before the transfer of the employee shall apply to the six
19 months’ service requirement of ORS 238.015, 238A.100 or 238A.300 (1) **or**
20 **section 6 of this 2015 Act.**

21 “(3) The county or city employment records, or a copy thereof, applicable
22 to an employee transferred under subsection (2) of this section shall be pro-
23 vided by the person having custody of the records to the regional
24 correctional facility administrator.

25 **“SECTION 25.** ORS 173.051 is amended to read:

26 “173.051. The Legislative Fiscal Officer, with the aid of the Public Em-
27 ployees Retirement Board and public employers providing benefits under ORS
28 chapter 238A **or sections 1 to 20 of this 2015 Act**, shall prepare a fiscal
29 impact statement on each measure reported out of a committee of the Leg-
30 islative Assembly that would increase employer contributions under ORS

1 chapter 238A **or sections 1 to 20 of this 2015 Act**. If the Legislative Fiscal
2 Officer determines that a proposed measure would result in an increase in
3 the total liability for benefits under ORS chapter 238A **or sections 1 to 20**
4 **of this 2015 Act** that is in excess of one-tenth of one percent, the Legislative
5 Fiscal Officer shall promptly notify the Public Employees Retirement Board.
6 The board shall thereafter promptly give notice of the proposed measure, and
7 the fiscal impact of the proposed measure as determined by the Legislative
8 Fiscal Officer, to all public employers providing benefits under ORS chapter
9 238A **or sections 1 to 20 of this 2015 Act**.

10 **“SECTION 26.** ORS 192.502 is amended to read:

11 “192.502. The following public records are exempt from disclosure under
12 ORS 192.410 to 192.505:

13 “(1) Communications within a public body or between public bodies of an
14 advisory nature to the extent that they cover other than purely factual ma-
15 terials and are preliminary to any final agency determination of policy or
16 action. This exemption shall not apply unless the public body shows that in
17 the particular instance the public interest in encouraging frank communi-
18 cation between officials and employees of public bodies clearly outweighs the
19 public interest in disclosure.

20 “(2) Information of a personal nature such as but not limited to that kept
21 in a personal, medical or similar file, if public disclosure would constitute
22 an unreasonable invasion of privacy, unless the public interest by clear and
23 convincing evidence requires disclosure in the particular instance. The party
24 seeking disclosure shall have the burden of showing that public disclosure
25 would not constitute an unreasonable invasion of privacy.

26 “(3) Public body employee or volunteer addresses, Social Security num-
27 bers, dates of birth and telephone numbers contained in personnel records
28 maintained by the public body that is the employer or the recipient of vol-
29 unteer services. This exemption:

30 “(a) Does not apply to the addresses, dates of birth and telephone numbers

1 of employees or volunteers who are elected officials, except that a judge or
2 district attorney subject to election may seek to exempt the judge's or dis-
3 trict attorney's address or telephone number, or both, under the terms of
4 ORS 192.445;

5 “(b) Does not apply to employees or volunteers to the extent that the
6 party seeking disclosure shows by clear and convincing evidence that the
7 public interest requires disclosure in a particular instance;

8 “(c) Does not apply to a substitute teacher as defined in ORS 342.815
9 when requested by a professional education association of which the substi-
10 tute teacher may be a member; and

11 “(d) Does not relieve a public employer of any duty under ORS 243.650 to
12 243.782.

13 “(4) Information submitted to a public body in confidence and not other-
14 wise required by law to be submitted, where such information should rea-
15 sonably be considered confidential, the public body has obliged itself in good
16 faith not to disclose the information, and when the public interest would
17 suffer by the disclosure.

18 “(5) Information or records of the Department of Corrections, including
19 the State Board of Parole and Post-Prison Supervision, to the extent that
20 disclosure would interfere with the rehabilitation of a person in custody of
21 the department or substantially prejudice or prevent the carrying out of the
22 functions of the department, if the public interest in confidentiality clearly
23 outweighs the public interest in disclosure.

24 “(6) Records, reports and other information received or compiled by the
25 Director of the Department of Consumer and Business Services in the ad-
26 ministration of ORS chapters 723 and 725 not otherwise required by law to
27 be made public, to the extent that the interests of lending institutions, their
28 officers, employees and customers in preserving the confidentiality of such
29 information outweighs the public interest in disclosure.

30 “(7) Reports made to or filed with the court under ORS 137.077 or 137.530.

1 “(8) Any public records or information the disclosure of which is prohib-
2 ited by federal law or regulations.

3 “(9)(a) Public records or information the disclosure of which is prohibited
4 or restricted or otherwise made confidential or privileged under Oregon law.

5 “(b) Subject to ORS 192.423, paragraph (a) of this subsection does not
6 apply to factual information compiled in a public record when:

7 “(A) The basis for the claim of exemption is ORS 40.225;

8 “(B) The factual information is not prohibited from disclosure under any
9 applicable state or federal law, regulation or court order and is not other-
10 wise exempt from disclosure under ORS 192.410 to 192.505;

11 “(C) The factual information was compiled by or at the direction of an
12 attorney as part of an investigation on behalf of the public body in response
13 to information of possible wrongdoing by the public body;

14 “(D) The factual information was not compiled in preparation for liti-
15 gation, arbitration or an administrative proceeding that was reasonably
16 likely to be initiated or that has been initiated by or against the public body;
17 and

18 “(E) The holder of the privilege under ORS 40.225 has made or authorized
19 a public statement characterizing or partially disclosing the factual infor-
20 mation compiled by or at the attorney’s direction.

21 “(10) Public records or information described in this section, furnished
22 by the public body originally compiling, preparing or receiving them to any
23 other public officer or public body in connection with performance of the
24 duties of the recipient, if the considerations originally giving rise to the
25 confidential or exempt nature of the public records or information remain
26 applicable.

27 “(11) Records of the Energy Facility Siting Council concerning the review
28 or approval of security programs pursuant to ORS 469.530.

29 “(12) Employee and retiree address, telephone number and other nonfi-
30 nancial membership records and employee financial records maintained by

1 the Public Employees Retirement System pursuant to ORS chapters 238 and
2 **238A and sections 1 to 20 of this 2015 Act.**

3 “(13) Records of or submitted to the State Treasurer, the Oregon Invest-
4 ment Council or the agents of the treasurer or the council relating to active
5 or proposed publicly traded investments under ORS chapter 293, including
6 but not limited to records regarding the acquisition, exchange or liquidation
7 of the investments. For the purposes of this subsection:

8 “(a) The exemption does not apply to:

9 “(A) Information in investment records solely related to the amount paid
10 directly into an investment by, or returned from the investment directly to,
11 the treasurer or council; or

12 “(B) The identity of the entity to which the amount was paid directly or
13 from which the amount was received directly.

14 “(b) An investment in a publicly traded investment is no longer active
15 when acquisition, exchange or liquidation of the investment has been con-
16 cluded.

17 “(14)(a) Records of or submitted to the State Treasurer, the Oregon In-
18 vestment Council, the Oregon Growth Board or the agents of the treasurer,
19 council or board relating to actual or proposed investments under ORS
20 chapter 293 or 348 in a privately placed investment fund or a private asset
21 including but not limited to records regarding the solicitation, acquisition,
22 deployment, exchange or liquidation of the investments including but not
23 limited to:

24 “(A) Due diligence materials that are proprietary to an investment fund,
25 to an asset ownership or to their respective investment vehicles.

26 “(B) Financial statements of an investment fund, an asset ownership or
27 their respective investment vehicles.

28 “(C) Meeting materials of an investment fund, an asset ownership or their
29 respective investment vehicles.

30 “(D) Records containing information regarding the portfolio positions in

1 which an investment fund, an asset ownership or their respective investment
2 vehicles invest.

3 “(E) Capital call and distribution notices of an investment fund, an asset
4 ownership or their respective investment vehicles.

5 “(F) Investment agreements and related documents.

6 “(b) The exemption under this subsection does not apply to:

7 “(A) The name, address and vintage year of each privately placed invest-
8 ment fund.

9 “(B) The dollar amount of the commitment made to each privately placed
10 investment fund since inception of the fund.

11 “(C) The dollar amount of cash contributions made to each privately
12 placed investment fund since inception of the fund.

13 “(D) The dollar amount, on a fiscal year-end basis, of cash distributions
14 received by the State Treasurer, the Oregon Investment Council, the Oregon
15 Growth Board or the agents of the treasurer, council or board from each
16 privately placed investment fund.

17 “(E) The dollar amount, on a fiscal year-end basis, of the remaining value
18 of assets in a privately placed investment fund attributable to an investment
19 by the State Treasurer, the Oregon Investment Council, the Oregon Growth
20 Board or the agents of the treasurer, council or board.

21 “(F) The net internal rate of return of each privately placed investment
22 fund since inception of the fund.

23 “(G) The investment multiple of each privately placed investment fund
24 since inception of the fund.

25 “(H) The dollar amount of the total management fees and costs paid on
26 an annual fiscal year-end basis to each privately placed investment fund.

27 “(I) The dollar amount of cash profit received from each privately placed
28 investment fund on a fiscal year-end basis.

29 “(15) The monthly reports prepared and submitted under ORS 293.761 and
30 293.766 concerning the Public Employees Retirement Fund and the Industrial

1 Accident Fund may be uniformly treated as exempt from disclosure for a
2 period of up to 90 days after the end of the calendar quarter.

3 “(16) Reports of unclaimed property filed by the holders of such property
4 to the extent permitted by ORS 98.352.

5 “(17)(a) The following records, communications and information submitted
6 to the Oregon Business Development Commission, the Oregon Business De-
7 velopment Department, the State Department of Agriculture, the Oregon
8 Growth Board, the Port of Portland or other ports as defined in ORS 777.005,
9 or a county or city governing body and any board, department, commission,
10 council or agency thereof, by applicants for investment funds, grants, loans,
11 services or economic development moneys, support or assistance including,
12 but not limited to, those described in ORS 285A.224:

13 “(A) Personal financial statements.

14 “(B) Financial statements of applicants.

15 “(C) Customer lists.

16 “(D) Information of an applicant pertaining to litigation to which the
17 applicant is a party if the complaint has been filed, or if the complaint has
18 not been filed, if the applicant shows that such litigation is reasonably likely
19 to occur; this exemption does not apply to litigation which has been con-
20 cluded, and nothing in this subparagraph shall limit any right or opportunity
21 granted by discovery or deposition statutes to a party to litigation or po-
22 tential litigation.

23 “(E) Production, sales and cost data.

24 “(F) Marketing strategy information that relates to applicant’s plan to
25 address specific markets and applicant’s strategy regarding specific compet-
26 itors.

27 “(b) The following records, communications and information submitted to
28 the State Department of Energy by applicants for tax credits or for grants
29 awarded under ORS 469B.256:

30 “(A) Personal financial statements.

1 “(B) Financial statements of applicants.

2 “(C) Customer lists.

3 “(D) Information of an applicant pertaining to litigation to which the
4 applicant is a party if the complaint has been filed, or if the complaint has
5 not been filed, if the applicant shows that such litigation is reasonably likely
6 to occur; this exemption does not apply to litigation which has been con-
7 cluded, and nothing in this subparagraph shall limit any right or opportunity
8 granted by discovery or deposition statutes to a party to litigation or po-
9 tential litigation.

10 “(E) Production, sales and cost data.

11 “(F) Marketing strategy information that relates to applicant’s plan to
12 address specific markets and applicant’s strategy regarding specific compet-
13 itors.

14 “(18) Records, reports or returns submitted by private concerns or enter-
15 prises required by law to be submitted to or inspected by a governmental
16 body to allow it to determine the amount of any transient lodging tax pay-
17 able and the amounts of such tax payable or paid, to the extent that such
18 information is in a form which would permit identification of the individual
19 concern or enterprise. Nothing in this subsection shall limit the use which
20 can be made of such information for regulatory purposes or its admissibility
21 in any enforcement proceedings. The public body shall notify the taxpayer
22 of the delinquency immediately by certified mail. However, in the event that
23 the payment or delivery of transient lodging taxes otherwise due to a public
24 body is delinquent by over 60 days, the public body shall disclose, upon the
25 request of any person, the following information:

26 “(a) The identity of the individual concern or enterprise that is delinquent
27 over 60 days in the payment or delivery of the taxes.

28 “(b) The period for which the taxes are delinquent.

29 “(c) The actual, or estimated, amount of the delinquency.

30 “(19) All information supplied by a person under ORS 151.485 for the

1 purpose of requesting appointed counsel, and all information supplied to the
2 court from whatever source for the purpose of verifying the financial eligi-
3 bility of a person pursuant to ORS 151.485.

4 “(20) Workers’ compensation claim records of the Department of Con-
5 sumer and Business Services, except in accordance with rules adopted by the
6 Director of the Department of Consumer and Business Services, in any of the
7 following circumstances:

8 “(a) When necessary for insurers, self-insured employers and third party
9 claim administrators to process workers’ compensation claims.

10 “(b) When necessary for the director, other governmental agencies of this
11 state or the United States to carry out their duties, functions or powers.

12 “(c) When the disclosure is made in such a manner that the disclosed in-
13 formation cannot be used to identify any worker who is the subject of a
14 claim.

15 “(d) When a worker or the worker’s representative requests review of the
16 worker’s claim record.

17 “(21) Sensitive business records or financial or commercial information
18 of the Oregon Health and Science University that is not customarily pro-
19 vided to business competitors.

20 “(22) Records of Oregon Health and Science University regarding candi-
21 dates for the position of president of the university.

22 “(23) The records of a library, including:

23 “(a) Circulation records, showing use of specific library material by a
24 named person;

25 “(b) The name of a library patron together with the address or telephone
26 number of the patron; and

27 “(c) The electronic mail address of a patron.

28 “(24) The following records, communications and information obtained by
29 the Housing and Community Services Department in connection with the
30 department’s monitoring or administration of financial assistance or of

1 housing or other developments:

2 “(a) Personal and corporate financial statements and information, in-
3 cluding tax returns.

4 “(b) Credit reports.

5 “(c) Project appraisals, excluding appraisals obtained in the course of
6 transactions involving an interest in real estate that is acquired, leased,
7 rented, exchanged, transferred or otherwise disposed of as part of the project,
8 but only after the transactions have closed and are concluded.

9 “(d) Market studies and analyses.

10 “(e) Articles of incorporation, partnership agreements and operating
11 agreements.

12 “(f) Commitment letters.

13 “(g) Project pro forma statements.

14 “(h) Project cost certifications and cost data.

15 “(i) Audits.

16 “(j) Project tenant correspondence.

17 “(k) Personal information about a tenant.

18 “(L) Housing assistance payments.

19 “(25) Raster geographic information system (GIS) digital databases, pro-
20 vided by private forestland owners or their representatives, voluntarily and
21 in confidence to the State Forestry Department, that is not otherwise re-
22 quired by law to be submitted.

23 “(26) Sensitive business, commercial or financial information furnished to
24 or developed by a public body engaged in the business of providing electricity
25 or electricity services, if the information is directly related to a transaction
26 described in ORS 261.348, or if the information is directly related to a bid,
27 proposal or negotiations for the sale or purchase of electricity or electricity
28 services, and disclosure of the information would cause a competitive disad-
29 vantage for the public body or its retail electricity customers. This sub-
30 section does not apply to cost-of-service studies used in the development or

1 review of generally applicable rate schedules.

2 “(27) Sensitive business, commercial or financial information furnished to
3 or developed by the City of Klamath Falls, acting solely in connection with
4 the ownership and operation of the Klamath Cogeneration Project, if the
5 information is directly related to a transaction described in ORS 225.085 and
6 disclosure of the information would cause a competitive disadvantage for the
7 Klamath Cogeneration Project. This subsection does not apply to cost-of-
8 service studies used in the development or review of generally applicable rate
9 schedules.

10 “(28) Personally identifiable information about customers of a municipal
11 electric utility or a people’s utility district or the names, dates of birth,
12 driver license numbers, telephone numbers, electronic mail addresses or So-
13 cial Security numbers of customers who receive water, sewer or storm drain
14 services from a public body as defined in ORS 174.109. The utility or district
15 may release personally identifiable information about a customer, and a
16 public body providing water, sewer or storm drain services may release the
17 name, date of birth, driver license number, telephone number, electronic mail
18 address or Social Security number of a customer, if the customer consents
19 in writing or electronically, if the disclosure is necessary for the utility,
20 district or other public body to render services to the customer, if the dis-
21 closure is required pursuant to a court order or if the disclosure is otherwise
22 required by federal or state law. The utility, district or other public body
23 may charge as appropriate for the costs of providing such information. The
24 utility, district or other public body may make customer records available
25 to third party credit agencies on a regular basis in connection with the es-
26 tablishment and management of customer accounts or in the event such ac-
27 counts are delinquent.

28 “(29) A record of the street and number of an employee’s address submit-
29 ted to a special district to obtain assistance in promoting an alternative to
30 single occupant motor vehicle transportation.

1 “(30) Sensitive business records, capital development plans or financial
2 or commercial information of Oregon Corrections Enterprises that is not
3 customarily provided to business competitors.

4 “(31) Documents, materials or other information submitted to the Director
5 of the Department of Consumer and Business Services in confidence by a
6 state, federal, foreign or international regulatory or law enforcement agency
7 or by the National Association of Insurance Commissioners, its affiliates or
8 subsidiaries under ORS 86A.095 to 86A.198, 697.005 to 697.095, 697.602 to
9 697.842, 705.137, 717.200 to 717.320, 717.900 or 717.905, ORS chapter 59, 723,
10 725 or 726, the Bank Act or the Insurance Code when:

11 “(a) The document, material or other information is received upon notice
12 or with an understanding that it is confidential or privileged under the laws
13 of the jurisdiction that is the source of the document, material or other in-
14 formation; and

15 “(b) The director has obligated the Department of Consumer and Business
16 Services not to disclose the document, material or other information.

17 “(32) A county elections security plan developed and filed under ORS
18 254.074.

19 “(33) Information about review or approval of programs relating to the
20 security of:

21 “(a) Generation, storage or conveyance of:

22 “(A) Electricity;

23 “(B) Gas in liquefied or gaseous form;

24 “(C) Hazardous substances as defined in ORS 453.005 (7)(a), (b) and (d);

25 “(D) Petroleum products;

26 “(E) Sewage; or

27 “(F) Water.

28 “(b) Telecommunication systems, including cellular, wireless or radio
29 systems.

30 “(c) Data transmissions by whatever means provided.

1 “(34) The information specified in ORS 25.020 (8) if the Chief Justice of
2 the Supreme Court designates the information as confidential by rule under
3 ORS 1.002.

4 “(35)(a) Employer account records of the State Accident Insurance Fund
5 Corporation.

6 “(b) As used in this subsection, ‘employer account records’ means all re-
7 cords maintained in any form that are specifically related to the account of
8 any employer insured, previously insured or under consideration to be in-
9 sured by the State Accident Insurance Fund Corporation and any informa-
10 tion obtained or developed by the corporation in connection with providing,
11 offering to provide or declining to provide insurance to a specific employer.
12 ‘Employer account records’ includes, but is not limited to, an employer’s
13 payroll records, premium payment history, payroll classifications, employee
14 names and identification information, experience modification factors, loss
15 experience and dividend payment history.

16 “(c) The exemption provided by this subsection may not serve as the basis
17 for opposition to the discovery documents in litigation pursuant to applicable
18 rules of civil procedure.

19 “(36)(a) Claimant files of the State Accident Insurance Fund Corporation.

20 “(b) As used in this subsection, ‘claimant files’ includes, but is not limited
21 to, all records held by the corporation pertaining to a person who has made
22 a claim, as defined in ORS 656.005, and all records pertaining to such a
23 claim.

24 “(c) The exemption provided by this subsection may not serve as the basis
25 for opposition to the discovery documents in litigation pursuant to applicable
26 rules of civil procedure.

27 “(37) Except as authorized by ORS 408.425, records that certify or verify
28 an individual’s discharge or other separation from military service.

29 “(38) Records of or submitted to a domestic violence service or resource
30 center that relate to the name or personal information of an individual who

1 visits a center for service, including the date of service, the type of service
2 received, referrals or contact information or personal information of a family
3 member of the individual. As used in this subsection, ‘domestic violence
4 service or resource center’ means an entity, the primary purpose of which is
5 to assist persons affected by domestic or sexual violence by providing refer-
6 rals, resource information or other assistance specifically of benefit to do-
7 mestic or sexual violence victims.

8 “(39) Information reported to the Oregon Health Authority under ORS
9 431.964, except as provided in ORS 431.964 (2)(c) information disclosed by the
10 authority under ORS 431.966 and any information related to disclosures made
11 by the authority under ORS 431.966, including information identifying the
12 recipient of the information.

13 “(40)(a) Electronic mail addresses in the possession or custody of an
14 agency or subdivision of the executive department, as defined in ORS 174.112,
15 a local government or local service district, as defined in ORS 174.116, or a
16 special government body, as defined in ORS 174.117.

17 “(b) This subsection does not apply to electronic mail addresses assigned
18 by a public body to public employees for use by the employees in the ordi-
19 nary course of their employment.

20 “**SECTION 27.** ORS 196.165 is amended to read:

21 “196.165. (1) The Columbia River Gorge Commission established under
22 ORS 196.150 may designate its employees as employees and the commission
23 as an employer subject to the Oregon Public Employees Retirement System
24 under ORS chapters 238 and 238A **and sections 1 to 20 of this 2015 Act** or
25 as an employer and employees subject to a retirement system provided by the
26 State of Washington under the laws of the State of Washington.

27 “(2) The commission may designate its employees as employees eligible
28 under benefit plans provided under ORS 243.105 to 243.285 or under benefit
29 plans provided under the laws of the State of Washington.

30 “**SECTION 28.** ORS 237.620 is amended to read:

1 “237.620. (1) Except as provided in this section, all public employers of
2 police officers or firefighters shall provide retirement benefits to those em-
3 ployees under the Public Employees Retirement System.

4 “(2) Notwithstanding subsection (1) of this section, a public employer of
5 police officers or firefighters need not provide retirement benefits to those
6 employees under the Public Employees Retirement System if the Public Em-
7 ployees Retirement Board determines that the public employer provides re-
8 tirement benefits to each of the following classes of employees that are equal
9 to or better than the retirement benefits that would be provided to the
10 equivalent classes of employees under the Public Employees Retirement
11 System:

12 “(a) Police officers or firefighters who are entitled to receive benefits only
13 under ORS chapter 238 and who established membership in the system before
14 January 1, 1996, as described in ORS 238.430 (2);

15 “(b) Police officers or firefighters who are entitled to receive benefits only
16 under ORS chapter 238 and who established membership in the system on
17 or after January 1, 1996, and before August 29, 2003, as described in ORS
18 238A.025 (4); and

19 “(c) Police officers or firefighters who establish membership in the system
20 on or after August 29, 2003, and are entitled to benefits only under the
21 Oregon Public Service Retirement Plan.

22 “**(d) Police officers or firefighters who establish membership in the**
23 **system on or after the effective date of this 2015 Act, and are entitled**
24 **to benefits only under sections 1 to 20 of this 2015 Act.**

25 “(3) At such times as may be established by board rule, the Public Em-
26 ployees Retirement Board shall review the retirement benefits provided by
27 a public employer of police officers or firefighters that does not provide re-
28 tirement benefits for those employees under the Public Employees Retirement
29 System. The review must be conducted at the expense of the public employer.
30 Based on the review, the board shall determine whether the public employer

1 complies with the requirements of subsection (2) of this section. If the board
2 determines that the public employer does not comply with the requirements
3 of subsection (2) of this section for any class of employees described in sub-
4 section (2) of this section, the public employer must provide that class of
5 employees with retirement benefits adequate to meet the requirements of
6 subsection (2) of this section. If the public employer fails to provide those
7 benefits, any employee within the class may bring an action in circuit court
8 to compel compliance with the requirements of this section.

9 **“SECTION 29.** ORS 237.650 is amended to read:

10 “237.650. (1) Except as provided in this section, a person who is appointed
11 or elected as a member of the Legislative Assembly and who is a member of
12 the Public Employees Retirement System at the time of the appointment or
13 election may make a retirement plan election in the manner provided by this
14 section. If a person who is permitted to make an election under this section
15 does not make a retirement plan election under subsection (2), (3), (4), [or]
16 (5), **(6) or (7)** of this section, the person is deemed to have elected a retire-
17 ment plan as provided in subsection [(6)] **(8)** of this section.

18 “(2) An active or inactive member of the Public Employees Retirement
19 System who is appointed or elected as a member of the Legislative Assembly,
20 and who established membership in the system before August 29, 2003, as
21 described in ORS 238A.025, may:

22 “(a) Elect to remain a member of the system under ORS chapter 238 for
23 the purpose of service in the Legislative Assembly;

24 “(b) Decline to remain a member of the system under ORS chapter 238
25 and elect to become a legislator member of the state deferred compensation
26 plan under ORS 237.655 for the purpose of service in the Legislative Assem-
27 bly; or

28 “(c) Decline to remain a member of the system under ORS chapter 238 or
29 to become a legislator member of the state deferred compensation plan under
30 ORS 237.655 for the purpose of service in the Legislative Assembly.

1 “(3) A retired member of the Public Employees Retirement System who
2 is appointed or elected as a member of the Legislative Assembly, and who
3 established membership in the system before August 29, 2003, as described in
4 ORS 238A.025, may:

5 “(a) Elect to become an active member of the system under ORS chapter
6 238 for the purpose of service in the Legislative Assembly;

7 “(b) Decline to become an active member of the system under ORS chapter
8 238 and elect to become a legislator member of the state deferred compen-
9 sation plan under ORS 237.655 for the purpose of service in the Legislative
10 Assembly; or

11 “(c) Decline to become an active member of the system under ORS chapter
12 238 or to become a legislator member of the state deferred compensation plan
13 under ORS 237.655 for the purpose of service in the Legislative Assembly.

14 “(4) An active or inactive member of the Public Employees Retirement
15 System who is appointed or elected as a member of the Legislative Assembly,
16 and who established membership in the system on or after August 29, 2003,
17 as described in ORS 238A.025, **and before July 1, 2016**, may:

18 “(a) Elect to remain a member of the system under ORS chapter 238A for
19 the purpose of service in the Legislative Assembly;

20 “(b) Decline to remain a member of the system under ORS chapter 238A
21 and elect to become a legislator member of the state deferred compensation
22 plan under ORS 237.655 for the purpose of service in the Legislative Assem-
23 bly; or

24 “(c) Decline to remain a member of the system under ORS chapter 238A
25 or to become a legislator member of the state deferred compensation plan
26 under ORS 237.655 for the purpose of service in the Legislative Assembly.

27 “(5) A retired member of the Public Employees Retirement System who
28 is appointed or elected as a member of the Legislative Assembly, and who
29 established membership in the system on or after August 29, 2003, as de-
30 scribed in ORS 238A.025, **and before July 1, 2016**, may:

1 “(a) Elect to become an active member of the system under ORS chapter
2 238A for the purpose of service in the Legislative Assembly;

3 “(b) Decline to become an active member of the system under ORS chapter
4 238A and elect to become a legislator member of the state deferred compen-
5 sation plan under ORS 237.655 for the purpose of service in the Legislative
6 Assembly; or

7 “(c) Decline to become an active member of the system under ORS chapter
8 238A or to become a legislator member of the state deferred compensation
9 plan under ORS 237.655 for the purpose of service in the Legislative Assem-
10 bly.

11 **“(6) An active or inactive member of the Public Employees Retire-
12 ment System who is appointed or elected as a member of the Legisla-
13 tive Assembly, and who established membership in the system on or
14 after July 1, 2016, may:**

15 **“(a) Elect to remain a member of the system under sections 1 to
16 20 of this 2015 Act for the purpose of service in the Legislative As-
17 sembly;**

18 **“(b) Decline to remain a member of the system under sections 1 to
19 20 of this 2015 Act and elect to become a legislator member of the state
20 deferred compensation plan under ORS 237.655 for the purpose of ser-
21 vice in the Legislative Assembly; or**

22 **“(c) Decline to remain a member of the system under sections 1 to
23 20 of this 2015 Act or to become a legislator member of the state de-
24 ferred compensation plan under ORS 237.655 for the purpose of service
25 in the Legislative Assembly.**

26 **“(7) A retired member of the Public Employees Retirement System
27 who is appointed or elected as a member of the Legislative Assembly,
28 and who established membership in the system on or after July 1, 2016,
29 may:**

30 **“(a) Elect to become an active member of the system under sections**

1 **1 to 20 of this 2015 Act for the purpose of service in the Legislative**
2 **Assembly;**

3 **“(b) Decline to become an active member of the system under**
4 **sections 1 to 20 of this 2015 Act and elect to become a legislator**
5 **member of the state deferred compensation plan under ORS 237.655 for**
6 **the purpose of service in the Legislative Assembly; or**

7 **“(c) Decline to become an active member of the system under**
8 **sections 1 to 20 of this 2015 Act or to become a legislator member of**
9 **the state deferred compensation plan under ORS 237.655 for the pur-**
10 **pose of service in the Legislative Assembly.**

11 **“[(6)] (8) Written notice of an election under subsection (2), (3), (4) [or],**
12 **(5), (6) or (7) of this section must be given to the Public Employees Retire-**
13 **ment Board not more than 30 days after the person takes office. If the board**
14 **does not receive written notice of the election within 30 days after the per-**
15 **son takes office:**

16 **“(a) A person described in subsection (2) of this section is deemed to have**
17 **elected to remain a member of the Public Employees Retirement System un-**
18 **der ORS chapter 238 for the purpose of service in the Legislative Assembly.**

19 **“(b) A person described in subsection (3) of this section is deemed to have**
20 **declined to become an active member of the system under ORS chapter 238**
21 **or to become a legislator member of the state deferred compensation plan**
22 **under ORS 237.655, and remains a retired member of the system under ORS**
23 **chapter 238 for the purpose of service in the Legislative Assembly.**

24 **“(c) A person described in subsection (4) of this section is deemed to have**
25 **elected to remain a member of the Public Employees Retirement System un-**
26 **der ORS chapter 238A for the purpose of service in the Legislative Assembly.**

27 **“(d) A person described in subsection (5) of this section is deemed to have**
28 **declined to become an active member of the system under ORS chapter 238A**
29 **or to become a legislator member of the state deferred compensation plan**
30 **under ORS 237.655, and remains a retired member of the system under ORS**

1 chapter 238A for the purpose of service in the Legislative Assembly.

2 **“(c) A person described in subsection (6) of this section is deemed**
3 **to have elected to remain a member of the Public Employees Retire-**
4 **ment System under sections 1 to 20 of this 2015 Act for the purpose**
5 **of service in the Legislative Assembly.**

6 **“(d) A person described in subsection (7) of this section is deemed**
7 **to have declined to become an active member of the system under**
8 **sections 1 to 20 of this 2015 Act or to become a legislator member of**
9 **the state deferred compensation plan under ORS 237.655, and remains**
10 **a retired member of the system under sections 1 to 20 of this 2015 Act**
11 **for the purpose of service in the Legislative Assembly.**

12 ~~“(7) (9) An election under subsection (3)(b) or (c) [or], (5)(b) or (c) or~~
13 ~~(7)(b) or (c) of this section does not affect the status of a person as a retired~~
14 ~~member of the system and a recipient of retirement benefits under ORS~~
15 ~~chapter 238 or 238A or sections 1 to 20 of this 2015 Act.~~

16 ~~“(8) (10) An election under this section does not affect the ability of a~~
17 ~~person appointed or elected as a member of the Legislative Assembly to~~
18 ~~participate in the state deferred compensation plan in the manner provided~~
19 ~~by ORS 243.401 to 243.507 as other than a legislator member under ORS~~
20 ~~237.655.~~

21 **“SECTION 30. ORS 238.105 is amended to read:**

22 **“238.105. (1) Whenever, within five years after the employee is separated**
23 **from all service entitling the employee to membership in the system, an em-**
24 **ployee who has withdrawn the amount credited to the member account of the**
25 **member reenters the service of an employer participating in the system, the**
26 **employee’s rights in the system that were forfeited by the withdrawal shall**
27 **be restored upon repaying to the board within one year after reentering the**
28 **service of the employer, the full amount so withdrawn together with the in-**
29 **terest that would have been accumulated on the sum had the amount not**
30 **been withdrawn.**

1 “(2) Restoration of rights under this section does not affect any forfeiture
2 of rights of a person by reason of:

3 “(a) Withdrawal of an account established under ORS 238.440;

4 “(b) Withdrawal from the pension program under ORS 238A.120; [or]

5 “(c) Withdrawal of individual accounts pursuant to ORS 238A.375; or

6 **“(d) Withdrawal of member accounts under section 14 of this 2015
7 Act.**

8 **“SECTION 31.** ORS 238.115 is amended to read:

9 “238.115. (1)(a) A member of the system who, after separation from all
10 service entitling the employee to membership in the system and withdrawal
11 of the amount credited to the member account of the member, reenters the
12 service of an employer participating in the system and serves as an active
13 member of the system for 10 years after that reentry, and who has not oth-
14 erwise obtained restoration of creditable service forfeited by the withdrawal,
15 shall obtain restoration of one full month of creditable service forfeited by
16 the withdrawal for each three full months of service as an active member
17 after that reentry if the member, within 90 days before the effective date of
18 retirement of the member:

19 “(A) Applies in writing to the board for restoration of creditable service;
20 and

21 “(B) Pays to the board in a lump sum for credit to the member account
22 of the member the amount withdrawn and interest on the amount withdrawn
23 compounded annually for each year or portion of a year after the date of the
24 withdrawal and before the effective date of retirement of the member. The
25 interest shall be computed at the annual rate of 7.5 percent.

26 “(b) If a member who obtains restoration of creditable service as provided
27 in this subsection does not obtain restoration of all creditable service for-
28 feited by the withdrawal pursuant to service after reentry, the payment un-
29 der paragraph (a) of this subsection shall be reduced proportionately to
30 reflect the percentage of creditable service restored.

1 “(c) A member who obtains restoration of creditable service as provided
2 in this subsection is not entitled to elect to receive the service retirement
3 benefit described in ORS 238.305 (2) or (3).

4 “(2) A member who forfeited creditable service rendered to a public em-
5 ployer before March 27, 1953, because under ORS 237.976 (2) the employee
6 withdrew contributions of the employee to the Public Employees Retirement
7 System established by chapter 401, Oregon Laws 1945, and who did not obtain
8 restoration of creditable service so forfeited as provided in chapter 857,
9 Oregon Laws 1977, shall, upon retirement, receive restoration of creditable
10 service so forfeited, if the member, before the effective date of retirement of
11 the member:

12 “(a) Applies in writing to the board for the restoration of the creditable
13 service; and

14 “(b) Pays to the board in a lump sum for credit to the member account
15 of the member an amount determined by the board to be equal to the full
16 amount of contributions so withdrawn and the interest that would have ac-
17 cumulated to the regular account of the member had those contributions not
18 been withdrawn.

19 “(3)(a) A member of the Public Employees Retirement System who was a
20 member of an association established pursuant to ORS chapter 239 (1997
21 Edition), but separated from all service entitling the employee to membership
22 in the system of the association and withdrew the amount credited to the
23 member account of the employee in the retirement fund of the association,
24 and who, after that separation, entered the service of an employer in the
25 field of education participating in the Public Employees Retirement System
26 and served as an active member of that system for 10 years after that entry,
27 and who has not otherwise obtained restoration of all creditable service
28 forfeited by the withdrawal, shall obtain creditable service as a member of
29 the Public Employees Retirement System equal to all creditable service for-
30 feited by the withdrawal if the member within 90 days before the effective

1 date of retirement of the member:

2 “(A) Applies in writing to the Public Employees Retirement Board for
3 that creditable service; and

4 “(B) Pays to the board in a lump sum for credit to the member account
5 of the member the amount withdrawn and interest on the amount withdrawn
6 compounded annually for each year or portion of a year after the date of the
7 withdrawal and before the effective date of retirement or effective date of
8 application of the member. The interest shall be computed at the rate actu-
9 ally credited to regular accounts for that period.

10 “(b) This subsection provides a method of obtaining creditable service for
11 forfeited creditable service described in this subsection that is in lieu of any
12 application of subsection (1) of this section for that purpose.

13 “(4) Restoration of creditable service under this section does not affect
14 any forfeiture of rights of a person by reason of:

15 “(a) Withdrawal of an account established under ORS 238.440;

16 “(b) Withdrawal from the pension program under ORS 238A.120; [or]

17 “(c) Withdrawal of individual accounts pursuant to ORS 238A.375;

18 “(d) **Withdrawal of member accounts under section 14 of this 2015**
19 **Act.**

20 “**SECTION 32.** ORS 238.265 is amended to read:

21 “238.265. (1) Except as otherwise provided in this section, a member of the
22 Public Employees Retirement System may withdraw from the Public Em-
23 ployees Retirement Fund the amount credited to the member account, if any,
24 for the member if:

25 “(a) The member is separated from all service with participating public
26 employers;

27 “(b) The member is separated from all service with employers who are
28 treated as part of a participating public employer’s controlled group under
29 the federal laws and rules governing the status of the system and the fund
30 as a qualified governmental retirement plan and trust;

1 “(c) The member has not attained earliest service retirement age; and

2 “(d) The separation from service is not by reason of death or disability.

3 “(2) If a member wishes to withdraw the member account, if any, of the
4 member under this section, the member must transmit to the Public Em-
5 ployees Retirement Board a withdrawal request. The board shall deny the
6 withdrawal, or shall take all reasonable steps to recover withdrawn amounts,
7 if:

8 “(a) The board determines that the separation is not a bona fide sepa-
9 ration; or

10 “(b) The member fails to remain absent from the service of all employers
11 described in subsection (1) of this section for at least one calendar month
12 following the month in which the member separates from service.

13 “(3) If a member has contributed to the fund in each of five calendar years
14 and has separated from all service in the manner described in subsection (1)
15 of this section before reaching earliest service retirement age, the member
16 may elect to withdraw the member account of the member under this section
17 at any time before reaching earliest service retirement age. If the inactive
18 member does not make an election to withdraw under this section, the
19 member shall be paid the benefits or retirement allowances described in ORS
20 238.425.

21 “(4) A member who is vested in the pension program established under
22 ORS chapter 238A and who is eligible to withdraw from the pension program
23 under ORS 238A.120 may withdraw a member account under this section only
24 if the member also withdraws from the pension program. A member who has
25 an individual account or accounts in the individual account program estab-
26 lished under ORS chapter 238A **or a member account under sections 1**
27 **to 20 of this 2015 Act**, may withdraw a member account under this section
28 only if the member also withdraws all individual **and member** accounts
29 pursuant to ORS 238A.375 **and section 14 of this 2015 Act**. A member who
30 has an account established under ORS 238.440 may withdraw a member ac-

1 count under this section only if the member also withdraws the account es-
2 tablished under ORS 238.440.

3 “(5) Withdrawal of [*a member*] **an** account under this section cancels all
4 membership rights in the system, including the right to claim credit for any
5 employment before withdrawal.

6 **“SECTION 33.** ORS 238.445 is amended to read:

7 “238.445. (1) Except as provided in this section, the right of a person to
8 a pension, an annuity or a retirement allowance, to the return of contribu-
9 tion, the pension, annuity or retirement allowance itself, any optional benefit
10 or death benefit, or any other right accrued or accruing to any person under
11 the provisions of this chapter or ORS chapter 238A **or sections 1 to 20 of**
12 **this 2015 Act**, and the money in the various funds created by ORS 238.660
13 and 238.670, shall be exempt from garnishment and all state, county and
14 municipal taxes heretofore or hereafter imposed, except as provided under
15 ORS chapter 118, shall not be subject to execution, garnishment, attachment
16 or any other process or to the operation of any bankruptcy or insolvency law
17 heretofore or hereafter existing or enacted, and shall be unassignable.

18 “(2) Subsection (1) of this section does not apply to state personal income
19 taxation of amounts paid under this chapter and ORS chapter 238A **or**
20 **sections 1 to 20 of this 2015 Act.**

21 “(3) Unless otherwise ordered by a court under ORS 25.387, the exemption
22 from execution or other process granted under this section applies to 50
23 percent of amounts paid under this chapter and ORS chapter 238A **or**
24 **sections 1 to 20 of this 2015 Act** if the execution or other process is issued
25 for a support obligation or an order or notice entered or issued under ORS
26 chapter 25, 107, 108, 109, 110, 416, 419B or 419C.

27 **“SECTION 34.** ORS 238.455 is amended to read:

28 “238.455. (1)(a) Whenever a member of the system is retired for service
29 and is entitled to receive a retirement allowance or benefit that is payable
30 monthly, and the Public Employees Retirement Board is unable to calculate

1 the amount of the monthly payment in time to allow mailing of the monthly
2 payment to the member within 62 days of the date the first monthly payment
3 is due, the board shall calculate an estimated amount for the monthly pay-
4 ment based on the information then available to the board and shall mail
5 that payment to the member within 62 days of the date the first monthly
6 payment is due.

7 “(b) Whenever a member of the system is retired for disability and is en-
8 titled to receive a retirement allowance or benefit that is payable monthly,
9 and the board is unable to calculate the amount of the monthly payment in
10 time to allow mailing of the monthly payment to the member within 10 days
11 of either the date the board approves the member’s application or the date
12 that the first monthly payment is due, whichever is later, the board shall
13 calculate an estimated amount for the monthly payment based on the infor-
14 mation then available to the board and shall mail that payment to the
15 member within 10 days of the date the board approves the member’s disabil-
16 ity benefit, the date the board receives the member’s election of one of the
17 optional forms of disability retirement allowance or the date the first
18 monthly payment is due, whichever is later.

19 “(2) The board shall continue to mail estimated payments under sub-
20 section (1) of this section until such time as the correct amount of the
21 monthly payment is determined.

22 “(3) The board shall notify the member receiving an estimated payment
23 under subsection (1) of this section that the payment is an estimated payment
24 only. The board shall further notify the member of the provisions of sub-
25 section (4) of this section.

26 “(4) If the board determines that any estimated payment made to the
27 member under subsection (1) of this section resulted in payment to the
28 member of an amount other than the correct amount due the member as a
29 retirement allowance or benefit, the board shall immediately so notify the
30 member. Thereafter, the board may increase or decrease the monthly payment

1 to the member until such time as the total difference between the amount
2 or amounts the member received and the amount or amounts the member
3 should have received is accounted for. Thereafter the member shall receive
4 the monthly payment as finally calculated by the board.

5 “(5) If the estimated payment made to the member under subsection (1)
6 of this section results in an underpayment to the member of \$10 or more a
7 month, the board shall pay interest on the balance of such underpayment at
8 a rate established by rule of the board until such time as the underpayment
9 is paid to the member pursuant to subsection (4) of this section.

10 “(6) No member shall have any right to any allowance or other benefit
11 other than that provided for in this chapter [*and*] **or** ORS chapter 238A **or**
12 **sections 1 to 20 of this 2015 Act** based on the board’s estimate under this
13 section or based on any other estimate made by the board for any other
14 purpose under this chapter [*and*] **or** ORS chapter 238A **or sections 1 to 20**
15 **of this 2015 Act.**

16 **“SECTION 35.** ORS 238.465 is amended to read:

17 “238.465. (1) Notwithstanding ORS 238.445 or any other provision of law,
18 payments under this chapter or ORS chapter 238A **or sections 1 to 20 of**
19 **this 2015 Act** of any pension, annuity, retirement allowance, disability ben-
20 efit, death benefit, refund benefit or other benefit that would otherwise be
21 made to a person entitled thereto under this chapter or ORS chapter 238A
22 **or sections 1 to 20 of this 2015 Act** shall be paid, in whole or in part, by
23 the Public Employees Retirement Board to an alternate payee if and to the
24 extent expressly provided for in the terms of any judgment of annulment or
25 dissolution of marriage or of separation, or the terms of any court order or
26 court-approved property settlement agreement incident to any judgment of
27 annulment or dissolution of marriage or of separation. Except as provided
28 in subsection (5) of this section, the total value of benefits payable to a
29 member and to an alternate payee under this section may not be greater than
30 the value of the benefits the member would otherwise be eligible to receive.

1 Any payment under this subsection to an alternate payee bars recovery by
2 any other person.

3 “(2) A judgment, order or settlement providing for payment to an alter-
4 nate payee under subsection (1) of this section may also provide:

5 “(a) That payments to the alternate payee may commence, at the election
6 of the alternate payee, at any time after the earlier of:

7 “(A) The earliest date the member would be eligible to receive retirement
8 benefits if the member separates from service; or

9 “(B) The date the member actually separates from service due to death,
10 disability, retirement or termination of employment.

11 “(b) That the alternate payee may elect to receive payment in any form
12 of pension, annuity, retirement allowance, disability benefit, death benefit,
13 refund benefit or other benefit, except a benefit in the form of a joint and
14 survivor annuity, that would be available to the member under this chapter
15 or ORS chapter 238A **or sections 1 to 20 of this 2015 Act**, or that would
16 be available to the member if the member retired or separated from service
17 at the time of election by the alternate payee, without regard to the form
18 of benefit elected by the member.

19 “(c) That the alternate payee’s life is the measuring life for the purpose
20 of measuring payments to the alternate payee under the form of benefit se-
21 lected by the alternate payee and for the purpose of determining necessary
22 employer reserves.

23 “(d) Except as provided in ORS 238.305 (10) and 238.325 (7), that any per-
24 son designated by the member as a beneficiary under ORS 238.300, 238.305,
25 238.325, 238A.190 or 238A.400 **or section 15 of this 2015 Act** be changed,
26 even though the member has retired and has begun receiving a retirement
27 allowance or pension. If a change of beneficiary is ordered under this para-
28 graph, the board shall adjust the anticipated benefits that would be payable
29 to the member and the beneficiary to ensure that the cost to the system of
30 providing benefits to the member and the new beneficiary does not exceed

1 the cost that the system would have incurred to provide benefits to the
2 member and the original beneficiary. The judgment, order or settlement may
3 not provide for any change to the option selected by the retired member
4 under ORS 238.300, 238.305, 238.320, 238.325, 238A.190 or 238A.400 as to the
5 form of the retirement benefit.

6 “(3) The board shall adopt rules that provide for:

7 “(a) The creation of a separate account in the name of the alternate payee
8 reflecting the judgment’s, order’s or agreement’s distribution of the member’s
9 benefits under this chapter or ORS chapter 238A **or sections 1 to 20 of this**
10 **2015 Act;**

11 “(b) The establishing of criteria to determine whether domestic relations
12 judgments, orders and agreements comply with this section; and

13 “(c) The definitions and procedures for the administration of this section.

14 “(4) An alternate payee may designate a beneficiary for the purposes of
15 death benefits payable under ORS 238.390 and 238.395 **and section 15 of this**
16 **2015 Act.** Subject to ORS 238A.410 (2), an alternate payee may designate a
17 beneficiary for the purposes of death benefits payable under ORS 238A.410.
18 If the alternate payee fails to designate a beneficiary for the purposes of
19 death benefits payable under ORS 238.390 and 238.395 **and section 15 of this**
20 **2015 Act,** the benefits shall be paid as provided by ORS 238.390 (2) **and**
21 **section 15 (2) of this 2015 Act.** If the alternate payee fails to designate a
22 beneficiary for the purposes of death benefits payable under ORS 238A.410,
23 the benefits shall be paid as provided by ORS 238A.410 (3). If a judgment,
24 order or agreement awards an interest to an alternate payee, and if the al-
25 ternate payee predeceases the member before the alternate payee has com-
26 menced receiving benefits, the alternate payee shall be considered a member
27 of the system who died before retiring for the purposes of the death benefits
28 provided in ORS 238.390, 238.395, 238A.230 and 238A.410 **and section 15 of**
29 **this 2015 Act,** but for purposes of the death benefits provided in ORS 238.395,
30 the alternate payee shall be considered a member of the system who died

1 before retiring only if the member would have been eligible for death benefits
2 under ORS 238.395 had the member died at the same time as the alternate
3 payee. Payment of the death benefits to the beneficiaries, estate or other
4 persons entitled to receive the benefits under ORS 238.390, 238.395, 238A.230
5 and 238A.410 **and section 15 of this 2015 Act**, shall constitute payment in
6 full of the alternate payee's interest under the judgment, order or agreement.

7 “(5) Any increase in the retirement allowance provided to the member
8 shall increase the amounts paid to the alternate payee in the same propor-
9 tion, except that:

10 “(a) An alternate payee is not entitled to receive cost-of-living adjust-
11 ments under ORS 238.360 or any other retirement allowance increase until
12 benefits are first paid from the system on behalf of the member; and

13 “(b) Cost-of-living adjustments under ORS 238.360 or 238A.210 to the re-
14 tirement allowance paid to an alternate payee shall be calculated on the
15 basis of the amount of the alternate payee's yearly allowance or yearly pen-
16 sion or benefit, as those terms are defined in ORS 238.360 and 238A.210.

17 “(6) An alternate payee under this section is not eligible to receive the
18 benefits provided under ORS 238.410, 238.415, 238.420 and 238.440 by reason
19 of the provisions of this section.

20 “(7) An alternate payee who elects to begin receiving payments under
21 subsection (1) of this section before the member's effective date of retirement
22 is not eligible to receive any additional payment by reason of credit in the
23 system acquired by the member after the alternate payee begins to receive
24 payments.

25 “(8) Subsection (1) of this section applies only to payments made by the
26 board after the date of receipt by the board of written notice of the judg-
27 ment, order or agreement and such additional information and documenta-
28 tion as the board may prescribe.

29 “(9) Whenever the board is required to make payment to an alternate
30 payee under the provisions of this section, the board shall charge and collect

1 out of the benefits payable to the member and the alternate payee actual and
2 reasonable administrative expenses and related costs incurred by the board
3 in obtaining data and making calculations that are necessary by reason of
4 the provisions of this section. The board may not charge more than \$300 for
5 total administrative expenses and related costs incurred in obtaining data
6 or making calculations that are necessary by reason of the provisions of this
7 section. The board shall allocate expenses and costs charged under the pro-
8 visions of this subsection between the member and the alternate payee based
9 on the fraction of the benefit received by the member or alternate payee.

10 “(10) Unless otherwise provided by the judgment, order or agreement, a
11 member has no interest in the benefit payable to an alternate payee under
12 this section. Upon the death of an alternate payee, the board shall make such
13 payment to the beneficiary designated by the alternate payee as may be re-
14 quired under the form of benefit elected by the alternate payee. If a death
15 benefit is payable under ORS 238.390 or 238.395 **or section 15 of this 2015**
16 **Act** by reason of the death of an alternate payee, payment of the death
17 benefit shall be made to the beneficiary designated by the alternate payee
18 under ORS 238.390 (1), or as otherwise provided by ORS 238.390 and 238.395
19 **and section 15 of this 2015 Act.**

20 “(11) As used in this section, ‘court’ means any court of appropriate ju-
21 risdiction of this or any other state or of the District of Columbia.

22 **“SECTION 36.** ORS 238.630 is amended to read:

23 “238.630. (1) The governing authority of the system shall be a board
24 known as the Public Employees Retirement Board and consisting of five
25 members appointed by the Governor subject to confirmation by the Senate
26 in the manner provided in ORS 171.562 and 171.565. Except as otherwise
27 provided in ORS 238.640, the term of each member shall be three years. The
28 Governor shall designate one member to serve as chairperson, who shall
29 serve as chairperson at the pleasure of the Governor.

30 “(2) The board shall have:

1 “(a) The powers and privileges of a corporation, including the right to sue
2 and be sued in its own name as such board; and

3 “(b) The power and duty, subject to the limitations of this chapter and
4 ORS chapter 238A **and sections 1 to 20 of this 2015 Act**, of managing the
5 system.

6 “(3) The board:

7 “(a) Shall arrange for actuarial service for the system;

8 “(b) Shall employ a director;

9 “(c) Shall create such other positions as it deems necessary to sound and
10 economical administration of the system, which positions the director shall
11 fill by appointment;

12 “(d) Shall, with the approval of the Director of the Oregon Department
13 of Administrative Services, and as otherwise provided by law, fix the salaries
14 of all persons employed for purposes of administering the system;

15 “(e) Shall publish and distribute to all employer and employee members
16 of the system an annual report including a summary of investments of mon-
17 eys in the fund, investment earnings, significant legislative or administrative
18 changes in the system and other pertinent information on the operation of
19 the system for the preceding year;

20 “(f) Shall determine the actuarial equivalency of optional forms of re-
21 tirement allowances and pensions and adopt for that purpose the necessary
22 actuarial equivalency factor tables in the manner provided by ORS 238.607,
23 which shall constitute a part of the system; and

24 “(g) Shall adopt rules and take all actions necessary to maintain quali-
25 fication of the Public Employees Retirement System and the Public Employ-
26 ees Retirement Fund as a qualified governmental retirement plan and trust
27 under the Internal Revenue Code and under regulations adopted pursuant to
28 the Internal Revenue Code. Rules under this paragraph may impose limits
29 on contributions to the system, limits on benefits payable from the system
30 and other limitations or procedures required or imposed under federal law

1 or regulation for the purpose of qualification of the Public Employees Re-
2 tirement System and Public Employees Retirement Fund under the Internal
3 Revenue Code as a governmental retirement plan and trust.

4 “(4) The board established by this section shall succeed to all the duties
5 and prerogatives of the Public Employees Retirement Board created by
6 chapter 401, Oregon Laws 1945, in relation to the Public Employees Retire-
7 ment Fund, and in addition shall perform all duties required of it by ORS
8 237.950 to 237.980, in regard to moneys payable to or from such fund.

9 “(5) The board shall identify by rule those records that must be main-
10 tained by participating public employers for the purposes of subsection (3)(g)
11 of this section. A participating public employer shall maintain records for
12 all employees who are members of the system as required by board rules, and
13 shall provide that information to the board upon request.

14 **“SECTION 37.** ORS 238.645 is amended to read:

15 “238.645. The system shall be administered, subject to the limitations of
16 this chapter[,] **and** ORS chapter 238A **and sections 1 to 20 of this 2015 Act**
17 and the budget prescribed by the board, by the director provided for by ORS
18 238.630 and by a staff [*which*] **that** the board authorizes and [*which*] **that**
19 the director appoints. The director shall hold that position during the discretion
20 of the board and the members of the staff shall hold their respective posi-
21 tions during the discretion of the director. No member of the staff may be
22 removed from it, however, in a manner contrary to the laws of the state re-
23 garding civil service. The director shall furnish such bond as is required by
24 the board.

25 **“SECTION 38.** ORS 238.650 is amended to read:

26 “238.650. (1) Subject to the limitations of this chapter and ORS chapter
27 238A **and sections 1 to 20 of this 2015 Act**, the Public Employees Retire-
28 ment Board shall, from time to time, establish rules for transacting its
29 business and administering the system in accordance with the requirements
30 of ORS chapter 183.

1 “(2) All rules adopted by the board become part of the written plan doc-
2 ument of the Public Employees Retirement System for the purpose of the
3 status of the system and the Public Employees Retirement Fund as a quali-
4 fied governmental retirement plan and trust under the Internal Revenue
5 Code and under regulations adopted pursuant to the Internal Revenue Code.

6 **“SECTION 39.** ORS 238.700 is amended to read:

7 “238.700. All provisions of ORS 238.655, 238.705, 238.710 and 238.715 hereby
8 are made applicable for enforcement of the requirements of this chapter and
9 ORS chapter 238A **and sections 1 to 20 of this 2015 Act.**

10 **“SECTION 40.** ORS 238.705 is amended to read:

11 “238.705. (1) All public employers that are members of the system shall
12 promptly and regularly remit to the Public Employees Retirement Board all
13 contributions required of them by law and furnish all reports required by the
14 board.

15 “(2) Any public employer delinquent in remitting contributions shall be
16 charged interest on the total amount of contributions due from it at the rate
17 of one percent per month or fraction thereof during which the public em-
18 ployer is delinquent. Interest so paid shall be deposited in the Public Em-
19 ployees Retirement Fund and shall be used by the board in paying
20 administrative expenses of the system.

21 “(3) If any state officer or agency fails to remit any contribution or other
22 obligation required by law, the Public Employees Retirement Board, within
23 30 days after the date the request therefor has been made by it by registered
24 mail or by certified mail with return receipt, may certify to the Oregon De-
25 partment of Administrative Services the fact of such failure and the amount
26 of the delinquent contribution or obligation, together with its request that
27 such amount be set over from funds of the delinquent officer or agency to
28 the credit of the Public Employees Retirement Fund. A copy of such certi-
29 fication and request shall be furnished the delinquent officer or agency. The
30 department shall, within 10 days after receipt of the request of the board,

1 approve the payment of such amount by the delinquent officer or agency
2 from funds allocated to the officer or agency for the current biennium and
3 draw a warrant for payment of the amount of the contribution or obligation
4 due out of funds in the State Treasury allocated to the use of the delinquent
5 officer or agency.

6 “(4) If any public employer other than a state agency fails to remit any
7 contribution or pay any other obligation due under this chapter or ORS
8 chapter 238A **or sections 1 to 20 of this 2015 Act**, the board may certify to
9 the department the fact of such failure. Upon receipt of the certification the
10 department shall withhold payment to the public employer of any revenues
11 or funds in the State Treasury in which the public employer is entitled by
12 law to share and which have been apportioned to the public employer until
13 the board certifies to the department that the failure has been remedied. The
14 board shall send a copy of each certification it makes under this subsection
15 to the public employer affected.

16 “(5) Any public employer delinquent in making reports or supplying in-
17 formation concerning its employees in the manner required by the board
18 shall be charged a penalty of the lesser of \$2,000 or one percent of the total
19 annual contributions, for each month or fraction thereof during which the
20 employer is delinquent. In addition, the board may send an auditor to the
21 office of the employer to examine its records and to obtain the necessary
22 reports, the entire cost of such audit to be paid by the delinquent employer.
23 Penalties and other charges so paid shall be used by the board in paying
24 administrative expenses of the system.

25 **“SECTION 41.** ORS 238.715 is amended to read:

26 “238.715. (1) If the Public Employees Retirement Board determines that a
27 member of the Public Employees Retirement System or any other person re-
28 ceiving a monthly payment from the Public Employees Retirement Fund has
29 received any amount in excess of the amounts that the member or other
30 person is entitled to under this chapter [*and*] **or** ORS chapter 238A **or**

1 **sections 1 to 20 of this 2015 Act**, the board may recover the overpayment
2 or other improperly made payment by:

3 “(a) Reducing the monthly payment to the member or other person for as
4 many months as may be determined by the board to be necessary to recover
5 the overpayment or other improperly made payment; or

6 “(b) Reducing the monthly payment to the member or other person by an
7 amount actuarially determined to be adequate to recover the overpayment
8 or other improperly made payment during the period during which the
9 monthly payment will be made to the member or other person.

10 “(2)(a) Any person who receives a payment from the Public Employees
11 Retirement Fund and who is not entitled to receive that payment, including
12 a member of the system who receives an overpayment, holds the improperly
13 made payment in trust subject to the board’s recovery of that payment under
14 this section or by a civil action or other proceeding.

15 “(b) The board may recover an improperly made payment in the manner
16 provided by subsection (1) of this section from any person who receives an
17 improperly made payment from the fund and who subsequently becomes en-
18 titled to receive a monthly payment from the fund.

19 “(c) The board may recover an improperly made payment by reducing any
20 lump sum payment in the amount necessary to recover the improperly made
21 payment if a person who receives an improperly made payment from the fund
22 subsequently becomes entitled to receive a lump sum payment from the fund.

23 “(3) Unless the member or other person receiving a monthly payment from
24 the fund authorizes a greater reduction, the board may not reduce the
25 monthly payment made to a member or other person under the provisions of
26 subsection (1) of this section by an amount that is equal to more than 10
27 percent of the monthly payment.

28 “(4) Before reducing a benefit to recover an overpayment or erroneous
29 payment, or pursuing any other collection action under this section, the
30 board shall give notice of the overpayment or erroneous payment to the

1 person who received the payment. The notice shall describe the manner in
2 which the person who received the payment may appeal the board's deter-
3 mination that an overpayment or erroneous payment was made, the action
4 the board may take if the person does not respond to the notice and the
5 authority of the board to assess interest, penalties or costs of collection.

6 “(5) If the board determines that an overpayment or erroneous payment
7 was not caused by the system or by a participating public employer, the
8 board may assess interest in an amount equal to one percent per month on
9 the balance of the improperly made payment until the payment is fully re-
10 covered. The board may also assess to the member or other person all costs
11 incurred by the system in recovering the payment, including attorney fees.
12 Interest and costs may be collected in the manner prescribed in subsections
13 (1) and (2) of this section. The board may waive the interest and costs on
14 an overpayment or other improperly made payment for good cause shown.

15 “(6) Notwithstanding ORS 293.240, the board may waive the recovery of
16 any payment or payments made to a person who was not entitled to receive
17 the payment or payments if the total amount of the overpayment or other
18 improperly made payments is less than \$50.

19 “(7) A payment made to a person from the fund may not be recovered by
20 the board unless within six years after the date that the payment was made
21 the board has commenced proceedings to recover the payment. For the pur-
22 poses of subsection (1) of this section, the board shall be considered to have
23 commenced proceedings to recover the payment upon mailing of notice to the
24 person receiving a monthly payment that the board has determined that an
25 overpayment or other improperly made payment has been made.

26 “(8) The remedies authorized under this section are supplemental to any
27 other remedies that may be available to the board for recovery of amounts
28 incorrectly paid from the fund to members of the system or other persons.

29 “(9) The board shall adopt rules establishing the procedures to be followed
30 by the board in recovering overpayments and erroneous payments under this

1 section.

2 **“SECTION 42.** ORS 243.800 is amended to read:

3 “243.800. (1) Notwithstanding any provision of ORS chapter 238 or 238A
4 or ORS 243.910 to 243.945 **or sections 1 to 20 of this 2015 Act**, the State
5 Board of Higher Education and the governing board of a public university
6 with a governing board listed in ORS 352.054 shall establish and administer
7 an Optional Retirement Plan for administrative and academic employees of
8 the Oregon University System or public university. The Optional Retirement
9 Plan must be a qualified plan under the Internal Revenue Code, capable of
10 accepting funds transferred under subsection (7) of this section without the
11 transfer being treated as a taxable event under the Internal Revenue Code,
12 and willing to accept those funds. Retirement and death benefits shall be
13 provided under the plan by the purchase of annuity contracts, fixed or vari-
14 able or a combination thereof, or by contracts for investments in mutual
15 funds.

16 “(2) An administrative or academic employee may elect to participate in
17 the Optional Retirement Plan upon completion of:

18 “(a) Six hundred hours of employment, or the equivalent as determined
19 by the State Board of Higher Education or the governing board; and

20 “(b) Six months of employment that is not interrupted by more than 30
21 consecutive working days.

22 “(3) An administrative or academic employee may make an irrevocable
23 election to participate in the Optional Retirement Plan within six months
24 after being employed. An election under this subsection is effective on the
25 first day of the month following the completion of the requirements of sub-
26 section (2) of this section.

27 “(4) An administrative or academic employee who does not elect to par-
28 ticipate in the Optional Retirement Plan:

29 “(a) Remains or becomes a member of the Public Employees Retirement
30 System in accordance with ORS [*chapters 238 and*] **chapter 238 or 238A or**

1 **sections 1 to 20 of this 2015 Act; or**

2 “(b) Continues to be assisted by the State Board of Higher Education or
3 governing board under ORS 243.920 if the employee is being so assisted.

4 “(5) Except as provided in subsection (6) of this section, employees who
5 elect to participate in the Optional Retirement Plan are ineligible for active
6 membership in the Public Employees Retirement System or for any assistance
7 by the State Board of Higher Education or governing board under ORS
8 243.920 as long as those employees are employed in the Oregon University
9 System or public university and the plan is in effect.

10 “(6)(a) An administrative or academic employee who elects to participate
11 in the Optional Retirement Plan, who has creditable service under ORS
12 chapter 238 as defined by ORS 238.005 and who is not vested shall be con-
13 sidered by the Public Employees Retirement Board to be a terminated mem-
14 ber under the provisions of ORS 238.095 as of the effective date of the
15 election, and the amount credited to the member account of the member shall
16 be transferred directly to the Optional Retirement Plan by the Public Em-
17 ployees Retirement Board in the manner provided by subsection (7) of this
18 section.

19 “(b) An administrative or academic employee who elects to participate in
20 the Optional Retirement Plan, who has creditable service under ORS chapter
21 238 as defined by ORS 238.005 and who is vested shall be considered to be
22 an inactive member by the Public Employees Retirement Board and shall
23 retain all the rights, privileges and options under ORS chapter 238 unless the
24 employee makes a written request to the Public Employees Retirement Board
25 for a transfer of the amounts credited to the member account of the member
26 to the Optional Retirement Plan. A request for a transfer must be made at
27 the time the member elects to participate in the Optional Retirement Plan.
28 Upon receiving the request, the Public Employees Retirement Board shall
29 transfer all amounts credited to the member account of the member directly
30 to the Optional Retirement Plan, and shall terminate all rights, privileges

1 and options of the employee under ORS chapter 238.

2 “(c) An administrative or academic employee who elects to participate in
3 the Optional Retirement Plan, and who is not a vested member of the pension
4 program of the Oregon Public Service Retirement Plan as described in ORS
5 238A.115 on the date that the election becomes effective, shall be considered
6 to be a terminated member of the pension program by the Public Employees
7 Retirement Board as of the effective date of the election.

8 “(d) An administrative or academic employee who elects to participate in
9 the Optional Retirement Plan, and who is a vested member of the pension
10 program of the Oregon Public Service Retirement Plan as described in ORS
11 238A.115 on the date that the election becomes effective, shall be considered
12 an inactive member of the pension program by the Public Employees Re-
13 tirement Board as of the effective date of the election. An employee who is
14 subject to the provisions of this paragraph retains all the rights, privileges
15 and options of an inactive member of the pension program. If the actuarial
16 equivalent of the employee’s benefit under the pension program at the time
17 that the election becomes effective is \$5,000 or less, the employee may make
18 a written request to the Public Employees Retirement Board for a transfer
19 of the employee’s interest under the pension program to the Optional Re-
20 tirement Plan. The request must be made at the time the member elects to
21 participate in the Optional Retirement Plan. Upon receiving the request, the
22 Public Employees Retirement Board shall transfer the amount determined to
23 be the actuarial equivalent of the employee’s benefit under the pension pro-
24 gram directly to the Optional Retirement Plan, and shall terminate the
25 membership of the employee in the pension program.

26 “(e) An administrative or academic employee who elects to participate in
27 the Optional Retirement Plan, and who is a vested member of the individual
28 account program of the Oregon Public Service Retirement Plan as described
29 in ORS 238A.320 on the date that the election becomes effective, shall be
30 considered an inactive member of the individual account program by the

1 Public Employees Retirement Board as of the effective date of the election.
2 An employee who is subject to the provisions of this paragraph retains all
3 the rights, privileges and options of an inactive member of the individual
4 account program. An administrative or academic employee who elects to
5 participate in the Optional Retirement Plan, and who is a member of the
6 individual account program of the Oregon Public Service Retirement Plan,
7 may make a written request to the Public Employees Retirement Board that
8 all amounts in the member's employee account, rollover account and em-
9 ployer account, to the extent the member is vested in those accounts under
10 ORS 238A.320, be transferred to the Optional Retirement Plan. The request
11 must be made at the time the member elects to participate in the Optional
12 Retirement Plan. Upon receiving the request, the Public Employees Retire-
13 ment Board shall transfer the amounts directly to the Optional Retirement
14 Plan, and shall terminate the membership of the employee in the individual
15 account program upon making the transfer.

16 **“(f) An administrative or academic employee who elects to partic-**
17 **ipate in the Optional Retirement Plan, and who is a vested member**
18 **of the Fair Retirement Plan on the date that the election becomes ef-**
19 **fective, shall be considered an inactive member of the Fair Retirement**
20 **Plan as of the effective date of the election. An employee who is sub-**
21 **ject to the provisions of this paragraph retains all the rights, privileges**
22 **and options of an inactive member of the Fair Retirement Plan. An**
23 **administrative or academic employee who elects to participate in the**
24 **Optional Retirement Plan, and who is a member of the Fair Retire-**
25 **ment Plan, may make a written request to the Public Employees Re-**
26 **tirement Board that all amounts in the member's account, to the**
27 **extent the member is vested in those accounts under section 11 of this**
28 **2015 Act, be transferred to the Optional Retirement Plan. The request**
29 **must be made at the time the member elects to participate in the**
30 **Optional Retirement Plan. Upon receiving the request, the Public**

1 **Employees Retirement Board shall transfer the amounts directly to**
2 **the Optional Retirement Plan, and shall terminate the membership of**
3 **the employee in the Fair Retirement Plan upon making the transfer.**

4 “[(f)] (g) Notwithstanding paragraphs (b), (d) [*and*], (e) **and (f)** of this
5 subsection, the Public Employees Retirement Board may not treat any em-
6 ployee as an inactive member under the provisions of this subsection for the
7 purpose of receiving any benefit under ORS chapter 238 or 238A **or sections**
8 **1 to 20 of this 2015 Act** that requires that the employee be separated from
9 all service with participating public employers and with employers who are
10 treated as part of a participating public employer’s controlled group under
11 the federal laws and rules governing the status of the system and the Public
12 Employees Retirement Fund as a qualified governmental retirement plan and
13 trust.

14 “(7) Any amounts transferred from the Public Employees Retirement Fund
15 under subsection (6) of this section shall be transferred directly to the Op-
16 tional Retirement Plan by the Public Employees Retirement Board and may
17 not be made available to the employee.

18 “(8) An employee participating in the Optional Retirement Plan who was
19 hired before July 1, 2014, shall contribute monthly an amount equal to the
20 percentage of the employee’s salary that the employee would otherwise have
21 contributed as an employee contribution to the Public Employees Retirement
22 System if the employee had not elected to participate in the Optional Re-
23 tirement Plan.

24 “(9) For an employee participating in the Optional Retirement Plan who
25 was hired before July 1, 2014, the State Board of Higher Education or gov-
26 erning board shall contribute monthly to the Optional Retirement Plan the
27 percentage of salary of the employee equal to the percentage of salary that
28 would otherwise have been contributed as an employer contribution on be-
29 half of the employee to the Public Employees Retirement System, before any
30 offset under ORS 238.229 (2), if the employee had not elected to participate

1 in the Optional Retirement Plan.

2 “(10) For an employee participating in the Optional Retirement Plan who
3 was hired on or after July 1, 2014, the State Board of Higher Education shall
4 contribute monthly to the Optional Retirement Plan:

5 “(a) Eight percent of the employee’s salary; and

6 “(b) A percentage of the employee’s salary equal to the percentage of
7 salary contributed by the employee to the Oregon University System Tax-
8 Deferred Investment 403(b) Plan under ORS 243.820, up to four percent of the
9 employee’s salary in each pay period.

10 “(11) Both employee and employer contributions to an Optional Retire-
11 ment Plan shall be remitted directly to the companies that have issued an-
12 nuity contracts to the participating employees or directly to the mutual
13 funds.

14 “(12) Benefits under the Optional Retirement Plan are payable to em-
15 ployees who elect to participate in the plan and their beneficiaries by the
16 selected annuity provider or mutual fund in accordance with the terms of the
17 annuity contracts or the terms of the contract with the mutual fund. Em-
18 ployees electing to participate in the Optional Retirement Plan agree that
19 benefits payable under the plan are not obligations of the State of Oregon
20 or of the Public Employees Retirement System.

21 **“SECTION 43.** ORS 243.830 is amended to read:

22 “243.830. An agreement executed pursuant to ORS 243.820 by an employee
23 who is subject to ORS chapter 238 or 238A **or sections 1 to 20 of this 2015**
24 **Act**, or a similar retirement program for public employees, in no way affects
25 the contributions to be made or the benefits to be provided for such employee
26 under ORS chapter 238 or 238A **or sections 1 to 20 of this 2015 Act** or the
27 other similar program. Reduction of salary or forgoing a salary increase by
28 a stated amount under ORS 243.820 shall not be deemed a reduction in salary
29 for the purpose of such contributions and benefits.

30 **“SECTION 44.** ORS 268.240 is amended to read:

1 “268.240. (1) A district that is not participating in the Public Employees
2 Retirement System may, by application to the board, include any class of
3 employees of the district in the system [*established by ORS chapters 238 and*
4 *238A*] without entering into a contract of integration with the board under
5 ORS 238.680.

6 “(2) The board shall consider an application received under this section
7 to be an application to become a participating employer [*under ORS chapters*
8 *238 and 238A*] **in the Public Employees Retirement System**, but only to
9 the extent of providing membership for the class of employees described in
10 the application.

11 “(3) The board, upon such terms as are set forth in a contract between
12 the board and the employer, shall allow every employee in the specified class
13 to become members of the Public Employees Retirement System [*in accord-*
14 *ance with ORS chapters 238 and 238A*].

15 “(4) When a district enters into a contract with the board under sub-
16 section (3) of this section, the district shall agree to eventually extend [*cov-*
17 *erage under ORS chapters 238 and 238A*] **membership in the Public**
18 **Employees Retirement System** to all eligible district employees through
19 successive contracts with the board.

20 “(5) All employees who have completed the period of service with the
21 public employer that is required under ORS 238.015, 238A.100 or 238A.300 **or**
22 **section 6 of this 2015 Act** shall become members of the **Public Employees**
23 **Retirement System** on a date specified by the board. All other employees in
24 the described class shall become members upon completion of the required
25 period of service.

26 “(6) As used in this section, ‘board’ means the Public Employees Retire-
27 ment Board established under ORS 238.630.

28 **“SECTION 45.** ORS 338.135 is amended to read:

29 “338.135. (1) Employee assignment to a public charter school shall be
30 voluntary.

1 “(2)(a) A public charter school or the sponsor of the public charter school
2 is considered the employer of any employees of the public charter school. If
3 a school district board is not the sponsor of the public charter school, the
4 school district board may not be the employer of the employees of the public
5 charter school and the school district board may not collectively bargain
6 with the employees of the public charter school. The public charter school
7 governing body shall control the selection of employees at the public charter
8 school.

9 “(b) If a virtual public charter school or the sponsor of a virtual public
10 charter school contracts with a for-profit entity to provide educational ser-
11 vices through the virtual public charter school, the for-profit entity may not
12 be the employer of any employees of the virtual public charter school unless:

13 “(A) The employee is an administrator who does not have any teaching
14 responsibilities; and

15 “(B) Both the executive officer of the sponsor and the public charter
16 school governing body approve employment by the for-profit entity. The
17 executive officer or governing body may choose to grant approval under this
18 subparagraph:

19 “(i) For all employees of the for-profit entity who meet the description in
20 subparagraph (A) of this paragraph;

21 “(ii) Based on the job categories of the employees who meet the de-
22 scription in subparagraph (A) of this paragraph; or

23 “(iii) On a case-by-case basis for each employee who meets the description
24 in subparagraph (A) of this paragraph.

25 “(3) The school district board of the school district within which the
26 public charter school is located shall grant a leave of absence to any em-
27 ployee who chooses to work in the public charter school. The length and
28 terms of the leave of absence shall be set by negotiated agreement or by
29 board policy. However, the length of the leave of absence may not be less
30 than two years unless:

1 “(a) The charter of the public charter school is terminated or the public
2 charter school is dissolved or closed during the leave of absence; or

3 “(b) The employee and the school district board have mutually agreed to
4 a different length of time.

5 “(4) An employee of a public charter school operating within a school
6 district who is granted a leave of absence from the school district and re-
7 turns to employment with the school district shall retain seniority and ben-
8 efits as an employee pursuant to the terms of the leave of absence.
9 Notwithstanding ORS 243.650 to 243.782, a school district that was the em-
10 ployer of an employee of a public charter school not operating within the
11 school district may make provisions for the return of the employee to em-
12 ployment with the school district.

13 “(5) For purposes of ORS chapters 238 and 238A **and sections 1 to 20 of**
14 **this 2015 Act**, a public charter school shall be considered a public employer
15 and as such shall participate in the Public Employees Retirement System.

16 “(6) For teacher licensing, employment experience in public charter
17 schools shall be considered equivalent to experience in public schools.

18 “(7)(a) Any person employed as an administrator in a public charter
19 school shall be licensed or registered to administer by the Teacher Standards
20 and Practices Commission.

21 “(b) Any person employed as a teacher in a public charter school shall
22 be licensed or registered to teach by the commission.

23 “(c) Notwithstanding paragraph (a) or (b) of this subsection, at least
24 one-half of the total full-time equivalent (FTE) teaching and administrative
25 staff at the public charter school shall be licensed by the commission pur-
26 suant to ORS 342.135, 342.136, 342.138 or 342.140.

27 “(8) Notwithstanding ORS 243.650, a public charter school shall be con-
28 sidered a school district for purposes of ORS 243.650 to 243.782. An employee
29 of a public charter school may be a member of a labor organization or or-
30 ganize with other employees to bargain collectively. Bargaining units at the

1 public charter school may be separate from other bargaining units of the
2 sponsor or of the school district in which the public charter school is lo-
3 cated. Employees of a public charter school may be part of the bargaining
4 units of the sponsor or of the school district in which the public charter
5 school is located.

6 “(9) An entity described in ORS 338.005 (5) may not waive the right to
7 sponsor a public charter school in a collective bargaining agreement.

8 **“SECTION 46.** ORS 338.135, as amended by section 7, chapter 327, Oregon
9 Laws 2013, is amended to read:

10 “338.135. (1) Employee assignment to a public charter school shall be
11 voluntary.

12 “(2)(a) A public charter school or the sponsor of the public charter school
13 is considered the employer of any employees of the public charter school. If
14 a school district board is not the sponsor of the public charter school, the
15 school district board may not be the employer of the employees of the public
16 charter school and the school district board may not collectively bargain
17 with the employees of the public charter school. The public charter school
18 governing body shall control the selection of employees at the public charter
19 school.

20 “(b) If a virtual public charter school or the sponsor of a virtual public
21 charter school contracts with a for-profit entity to provide educational ser-
22 vices through the virtual public charter school, the for-profit entity may not
23 be the employer of any employees of the virtual public charter school.

24 “(3) The school district board of the school district within which the
25 public charter school is located shall grant a leave of absence to any em-
26 ployee who chooses to work in the public charter school. The length and
27 terms of the leave of absence shall be set by negotiated agreement or by
28 board policy. However, the length of the leave of absence may not be less
29 than two years unless:

30 “(a) The charter of the public charter school is terminated or the public

1 charter school is dissolved or closed during the leave of absence; or

2 “(b) The employee and the school district board have mutually agreed to
3 a different length of time.

4 “(4) An employee of a public charter school operating within a school
5 district who is granted a leave of absence from the school district and re-
6 turns to employment with the school district shall retain seniority and ben-
7 efits as an employee pursuant to the terms of the leave of absence.
8 Notwithstanding ORS 243.650 to 243.782, a school district that was the em-
9 ployer of an employee of a public charter school not operating within the
10 school district may make provisions for the return of the employee to em-
11 ployment with the school district.

12 “(5) For purposes of ORS chapters 238 and 238A **and sections 1 to 20 of**
13 **this 2015 Act**, a public charter school shall be considered a public employer
14 and as such shall participate in the Public Employees Retirement System.

15 “(6) For teacher licensing, employment experience in public charter
16 schools shall be considered equivalent to experience in public schools.

17 “(7)(a) Any person employed as an administrator in a public charter
18 school shall be licensed or registered to administer by the Teacher Standards
19 and Practices Commission.

20 “(b) Any person employed as a teacher in a public charter school shall
21 be licensed or registered to teach by the commission.

22 “(c) Notwithstanding paragraph (a) or (b) of this subsection, at least
23 one-half of the total full-time equivalent (FTE) teaching and administrative
24 staff at the public charter school shall be licensed by the commission pur-
25 suant to ORS 342.135, 342.136, 342.138 or 342.140.

26 “(8) Notwithstanding ORS 243.650, a public charter school shall be con-
27 sidered a school district for purposes of ORS 243.650 to 243.782. An employee
28 of a public charter school may be a member of a labor organization or or-
29 ganize with other employees to bargain collectively. Bargaining units at the
30 public charter school may be separate from other bargaining units of the

1 sponsor or of the school district in which the public charter school is lo-
2 cated. Employees of a public charter school may be part of the bargaining
3 units of the sponsor or of the school district in which the public charter
4 school is located.

5 “(9) An entity described in ORS 338.005 (5) may not waive the right to
6 sponsor a public charter school in a collective bargaining agreement.

7 **“SECTION 47.** ORS 341.290 is amended to read:

8 “341.290. The board of education of a community college district shall be
9 responsible for the general supervision and control of any and all community
10 colleges operated by the district. Consistent with any applicable rules of the
11 Higher Education Coordinating Commission, the board of education of a
12 community college district may:

13 “(1) Subject to ORS chapters 238 and 238A **and sections 1 to 20 of this**
14 **2015 Act**, employ administrative officers, professional personnel and other
15 employees, define their duties, terms and conditions of employment and pre-
16 scribe compensation therefor, pursuant to ORS 243.650 to 243.782.

17 “(2) Enact rules for the government of the community college, including
18 professional personnel and other employees and students of the community
19 college.

20 “(3) Prescribe the educational program.

21 “(4) Control use of and access to the grounds, buildings, books, equipment
22 and other property of the district.

23 “(5) Acquire, receive, hold, control, convey, sell, manage, operate, lease,
24 lease-purchase, lend, invest, improve and develop any and all property of
25 whatever nature given to or appropriated for the use, support or benefit of
26 any activity under the control of the board, according to the terms and
27 conditions of the gift or appropriation.

28 “(6) Purchase real property upon a contractual basis when the period of
29 time allowed for payment under the contract does not exceed 30 years.

30 “(7) Fix standards of admission to the community college, prescribe and

1 collect tuition for admission to the community college, including fixing dif-
2 ferent tuition rates for students who reside in the district, students who do
3 not reside in the district but are residents of the state and students who do
4 not reside in the state.

5 “(8) Prescribe and collect fees and expend funds so raised for special
6 programs and services for the students and for programs for the cultural and
7 physical development of the students.

8 “(9) Provide and disseminate to the public information relating to the
9 program, operation and finances of the community college.

10 “(10) Establish or contract for advisory and consultant services.

11 “(11) Take, hold and dispose of mortgages on real and personal property
12 acquired by way of gift or arising out of transactions entered into in ac-
13 cordance with the powers, duties and authority of the board and institute,
14 maintain and participate in suits and actions and other judicial proceedings
15 in the name of the district for the foreclosure of the mortgages.

16 “(12) Maintain programs, services and facilities, and, in connection
17 therewith, cooperate and enter into agreements with any person or public
18 or private agency.

19 “(13) Provide student services including health, guidance, counseling and
20 placement services, and contract therefor.

21 “(14) Join appropriate associations and pay any required dues therefor
22 from resources of the district.

23 “(15) Apply for federal funds and accept and enter into any contracts or
24 agreements for the receipt of the funds from the federal government or its
25 agencies for educational purposes.

26 “(16) Exercise any other power, duty or responsibility necessary to carry
27 out the functions under this section or required by law.

28 “(17) Prescribe rules for the use and access to public records of the dis-
29 trict that are consistent with ORS 192.420, and education records of students
30 under applicable state and federal law and rules of the commission. When-

1 ever a student has attained 18 years of age or is attending an institution of
2 post-secondary education, the permission or consent required of and the
3 rights accorded to a parent of the student regarding education records shall
4 thereafter be required of and accorded to only the student. However, faculty
5 records relating to matters such as conduct, personal and academic evalu-
6 ations, disciplinary actions, if any, and other personal matters shall not be
7 made available to public inspection for any purpose except with the consent
8 of the person who is the subject of the record or upon order of a court of
9 competent jurisdiction.

10 “(18) Enter into contracts for the receipt of cash or property, or both, and
11 establish charitable gift annuities pursuant to ORS 731.038; and, commit,
12 appropriate, authorize and budget for the payment of or other disposition of
13 general funds to pay, in whole or in part, sums due under an agreement for
14 a charitable gift annuity, and to provide the necessary funding for reserves
15 or other trust funds pursuant to ORS 731.038.

16 “(19) Encourage gifts to the district by faithfully devoting the proceeds
17 of the gifts to the district purposes for which intended.

18 “(20) Build, furnish, equip, repair, lease, purchase and raze facilities; and
19 locate, buy and acquire lands for all district purposes. Financing may be by
20 any prudent method including but not limited to loans, contract purchase
21 or lease. Leases authorized by this section include lease-purchase agree-
22 ments under which the district may acquire ownership of the leased property
23 at a nominal price. The financing agreements may be for a term of up to 30
24 years except for lease arrangements which may be for a term of up to 50
25 years.

26 “(21) Participate in an educational consortium with public and private
27 institutions that offer upper division and graduate instruction. Community
28 colleges engaged in consortiums may expend money, provide facilities and
29 assign staff to assist those institutions offering upper division and graduate
30 instruction.

1 “(22) Enter into contracts of insurance or medical and hospital service
2 contracts or may operate a self-insurance program as provided in ORS
3 341.312.

4 **“SECTION 48.** ORS 353.117 is amended to read:

5 “353.117. (1) Pursuant to ORS 353.050, Oregon Health and Science Uni-
6 versity may create and maintain an entity that is exempt from federal income
7 tax under section 501(c)(3) of the Internal Revenue Code, as amended, for the
8 purpose of conducting clinical care and practice and advancing other uni-
9 versity missions by the faculty.

10 “(2) Any entity created by the university under subsection (1) of this
11 section shall be considered:

12 “(a) A public employer for purposes of ORS 236.605 to 236.640 and ORS
13 chapters 238 and 238A **and sections 1 to 20 of this 2015 Act;**

14 “(b) A unit of local government for purposes of ORS 190.003 to 190.130;

15 “(c) A public body for purposes of ORS 30.260 to 30.300 and 307.112;

16 “(d) A public agency for purposes of ORS 200.090; and

17 “(e) A public corporation for purposes of ORS 307.090.

18 **“SECTION 49.** ORS 377.836 is amended to read:

19 “377.836. (1) Except as otherwise provided by law, and except as provided
20 in subsection (2) of this section, the provisions of ORS 279.835 to 279.855 and
21 283.085 to 283.092 and ORS chapters 240, 276, 279A, 279B, 279C, 282, 283, 291,
22 292 and 293 do not apply to the Travel Information Council. The council is
23 subject to all other statutes governing a state agency that do not conflict
24 with ORS 377.700 to 377.844, including the tort liability provisions of ORS
25 30.260 to 30.300 and the provisions of ORS chapter 183. Subject to the re-
26 quirements of ORS chapters 238 and 238A **and sections 1 to 20 of this 2015**
27 **Act**, the council’s employees are members of the Public Employees Retire-
28 ment System.

29 “(2) The following shall apply to the council:

30 “(a) ORS 279A.250 to 279A.290;

1 “(b) ORS 282.210 to 282.230; and

2 “(c) ORS 293.235, 293.240, 293.245, 293.611, 293.625 and 293.630.

3 **“SECTION 50.** ORS 396.330 is amended to read:

4 “396.330. (1) State employees of the Oregon Military Department who are
5 not otherwise members of the Oregon National Guard may be required as a
6 condition of employment to obtain membership in the Oregon State Defense
7 Force when in the judgment of the Adjutant General the membership main-
8 tains or enhances the readiness and stability of the department to provide
9 services if the need for Oregon State Defense Force assistance should arise.
10 The decision of the Adjutant General shall be carried out by written regu-
11 lation and shall not be subject to collective bargaining.

12 “(2) Members of the Oregon National Guard or Oregon State Defense
13 Force who are ordered to state active duty under the provisions of ORS
14 chapter 399 shall be considered as being in the military service of the state
15 and shall be considered temporary employees of the military department.

16 “(3) State employees of the military department may be ordered to state
17 active duty under ORS chapter 399 without jeopardizing their status as reg-
18 ular employees. Employees so ordered must be in an authorized leave status
19 from their regular military department employment during the period served
20 on active duty.

21 “(4) State employees of the military department shall be subject to ORS
22 chapter 240 or 243 when performing as regular employees.

23 “(5) Members of the Oregon National Guard who are serving under Title
24 10 or Title 32 of the United States Code are not eligible, by reason of that
25 service, for the rights or benefits of public employees granted or authorized
26 by ORS chapter 236, 237, 238, 238A, 240 or 243 **or sections 1 to 20 of this**
27 **2015 Act.** Except as required by federal law or regulation, ORS chapters 652,
28 653, 654, 656, 657, 659, 659A, 661 and 663 do not apply to members of the
29 Oregon National Guard who are serving under Title 10 or Title 32 of the
30 United States Code.

1 **“SECTION 51.** ORS 576.306 is amended to read:

2 “576.306. (1) A commodity commission may contract with an independent
3 contractor for the performance of any services. However, the commission
4 may not contract with an independent contractor to perform the discretion-
5 ary functions of the commission. ORS 279.835 to 279.855 and ORS chapters
6 240, 279A, 279B and 279C do not apply to the commission in obtaining such
7 services, except that a contract for such services may not take effect until
8 approved by the State Department of Agriculture as provided in subsection
9 (7) of this section.

10 “(2) The commission may rent space or acquire supplies and equipment
11 from any contractor as described in subsection (1) of this section. ORS
12 chapters 276, 278, 279A, 279B, 279C and 283 and ORS 279.835 to 279.855,
13 283.085 to 283.092 and 291.038 do not apply to such rentals or acquisitions.

14 “(3) Except as provided in this section, a contractor described in sub-
15 section (1) of this section shall be considered an independent contractor and
16 not an employee, eligible employee, public employee or employee of the state
17 for purposes of Oregon law, including ORS chapters 236, 238, 238A, 240, 243,
18 291, 292, 316 and 652 **and sections 1 to 20 of this 2015 Act.**

19 “(4) Nothing in this section precludes the state or a commission from
20 being considered the employer of the contractor described in subsection (1)
21 of this section for purposes of unemployment compensation under ORS
22 chapter 657 and ORS 670.600.

23 “(5) A contractor described in subsection (1) of this section shall be con-
24 sidered an independent contractor and not a worker for purposes of ORS
25 chapter 656 and ORS 670.600.

26 “(6) A contractor described in subsection (1) of this section may not be
27 considered a public official, public officer, state officer or executive official
28 for purposes of Oregon law, including ORS chapters 236, 244, 292, 295 and
29 297 and ORS 171.725 to 171.785.

30 “(7) The State Department of Agriculture shall review the contract de-

1 scribed in subsection (1) of this section for the adequacy of the clauses per-
2 taining to statement of work, starting and ending dates, consideration,
3 subcontracts, funds authorized in the budget, amendments, termination,
4 compliance with applicable law, assignment and waiver, access to records,
5 indemnity, ownership of work product, nondiscrimination, successors in in-
6 terest, attorney fees, tax certification or merger or any other clause the de-
7 partment deems necessary.

8 “(8) The Oregon Department of Administrative Services, in consultation
9 with the State Department of Agriculture, shall adopt rules necessary for the
10 screening and selection of independent contractors under this section.

11 “(9) Except as provided in subsection (8) of this section, the State De-
12 partment of Agriculture may promulgate any rules necessary for the admin-
13 istration and enforcement of this section.

14 **“SECTION 52.** ORS 777.775 is amended to read:

15 “777.775. (1) An export trading corporation is not a contracting agency for
16 the purposes of ORS 279A.055, 279A.065, 279A.070, 279A.075, 279A.100,
17 279A.105, 279A.120, 279C.005, 279C.100 to 279C.125, 279C.300 to 279C.470 and
18 279C.570 and ORS chapter 279B, except ORS 279B.025, 279B.235, 279B.240,
19 279B.270, 279B.275 and 279B.280.

20 “(2) An export trading corporation is not a public employer for the pur-
21 poses of ORS chapters 238 and 238A **and sections 1 to 20 of this 2015**
22 **Act.**

23 **“SECTION 53.** ORS 351.704 is amended to read:

24 “351.704. (1) Subject to ORS 351.094 and any group health and welfare
25 insurance benefit plan developed under ORS 351.094, a part-time faculty
26 member at a public institution of higher education is eligible for the same
27 health care benefits as full-time faculty members if the part-time faculty
28 member is eligible for membership in the Public Employees Retirement Sys-
29 tem or another plan authorized under ORS chapter 238 or 238A **or sections**
30 **1 to 20 of this 2015 Act** by teaching either at a single public institution of

1 higher education or in aggregate at multiple public institutions of higher
2 education during the prior year.

3 “(2) A part-time faculty member at a public institution of higher educa-
4 tion shall pay all insurance premiums for health care benefits unless other-
5 wise provided for by the policy of the institution or by collective bargaining
6 at the institution.

7 **“SECTION 54.** ORS 410.614, as amended by section 9, chapter 116, Oregon
8 Laws 2014, is amended to read:

9 “410.614. (1) Notwithstanding ORS 243.650 (19) and (20), the Home Care
10 Commission shall be considered a public employer and home care workers
11 shall be considered public employees governed by ORS 243.650 to 243.782.

12 “(2) Home care workers have the right to form, join and participate in the
13 activities of labor organizations of their own choosing for the purpose of
14 representation and collective bargaining with the commission on matters
15 concerning employment relations. These rights shall be exercised in accord-
16 ance with the rights granted to public employees with mediation and interest
17 arbitration under ORS 243.742 as the method of concluding the collective
18 bargaining process.

19 “(3) Home care workers are not public employees with respect to the
20 Public Employees Retirement System, the Oregon Public Service Retirement
21 Plan, **sections 1 to 20 of this 2015 Act** or the Public Employees’ Benefit
22 Board.

23 “(4) Home care workers do not have the right to strike.

24 **“SECTION 55.** ORS 741.201 is amended to read:

25 “741.201. (1) The Oregon Health Insurance Exchange Corporation is under
26 the supervision of an executive director appointed by the corporation board
27 of directors. The executive director serves at the pleasure of the board. The
28 executive director shall be paid a salary as prescribed by the board.

29 “(2) Before assuming the duties of the office, the executive director shall:

30 “(a) Give to the state a fidelity bond, with one or more corporate sureties

1 authorized to do business in this state, in a penal sum prescribed by the
2 Director of the Oregon Department of Administrative Services, but not less
3 than \$50,000. The premium for the bond shall be paid from an account es-
4 tablished under ORS 741.101.

5 “(b) Subscribe to an oath that the executive director faithfully and
6 impartially will discharge the duties of the office and that the executive di-
7 rector will support the Constitution of the United States and the Constitu-
8 tion of the State of Oregon. The executive director shall file a copy of the
9 signed oath with the Secretary of State.

10 “(3) The executive director has such other powers as are necessary to
11 carry out the duties of the corporation, subject to policy direction by the
12 board.

13 “(4) The executive director may employ, supervise and terminate the em-
14 ployment of such staff as the executive director deems necessary. The exec-
15 utive director shall prescribe their duties and fix their compensation, in
16 accordance with the personnel policies adopted by the board. Employees of
17 the corporation may not be individuals who are:

18 “(a) Employed by, consultants to or members of a board of directors of:

19 “(A) An insurer or third party administrator;

20 “(B) An insurance producer; or

21 “(C) A health care provider, health care facility or health clinic;

22 “(b) Members, board members or employees of a trade association of:

23 “(A) Insurers or third party administrators; or

24 “(B) Health care providers, health care facilities or health clinics; or

25 “(c) Health care providers, unless they receive no compensation for ren-
26 dering services as health care providers and do not have ownership interests
27 in professional health care practices.

28 “(5)(a) The board shall adopt personnel policies, subject to ORS 236.605
29 to 236.640, for any transferred public employees. The board may elect to
30 provide for participation in a health benefit plan available to state employees

1 pursuant to ORS 243.105 to 243.285 and may elect to participate in the state
2 deferred compensation plan established under ORS 243.401 to 243.507. If the
3 board so elects, employees of the corporation shall be considered eligible
4 employees for purposes of ORS 243.105 to 243.285 and eligible state employees
5 for purposes of ORS 243.401 to 243.507.

6 “(b) In order to facilitate the development of innovative health benefit
7 plans, the board or the executive director may contract with one or more
8 carriers to offer to employees of the Oregon Health Insurance Exchange
9 Corporation proof of concept health benefit plans approved by the Director
10 of the Department of Consumer and Business Services. A plan offered under
11 this paragraph is not subject to ORS 743.730 to 743.773.

12 “(6) With respect to the Public Employees Retirement System, employees
13 of the corporation shall be considered employees for purposes of ORS chapter
14 **238 and sections 1 to 20 of this 2015 Act** and eligible employees for pur-
15 poses of ORS chapter 238A.

16 “(7) Employees of the corporation may participate in collective bargaining
17 in accordance with ORS 243.650 to 243.782.

18 “**SECTION 56.** ORS 238.447 is amended to read:

19 “238.447. (1) Notwithstanding ORS 238.445, any retirement allowance,
20 pension payment, lump sum payment or other distribution payable under this
21 chapter or ORS chapter 238A **or sections 1 to 20 of this 2015 Act** to a
22 person convicted of a felony is subject to execution, garnishment, attachment
23 or other process to collect, and may be assigned to satisfy, the portion of a
24 money award described in subsection (2) of this section that is included in
25 a judgment entered in the criminal action as provided in ORS 18.048.

26 “(2) Subsection (1) of this section applies only to the amount of a money
27 award attributable to restitution ordered under ORS 137.106 or a
28 compensatory fine ordered under ORS 137.101.

29 “**SECTION 57.** ORS 238.460 is amended to read:

30 “238.460. (1) If receipt in full by a person of a retirement allowance or

1 other benefit under this chapter or ORS chapter 238A **or sections 1 to 20**
2 **of this 2015 Act** would prevent such person from receiving in full any other
3 governmental pension to which the person is entitled, such person may waive
4 for a calendar year sufficient monthly payments, or portions thereof, of re-
5 tirement allowance or other benefit under this chapter or ORS chapter 238A
6 **or sections 1 to 20 of this 2015 Act** to permit the person to receive in full
7 the other governmental pension. The waiver shall be made in writing and
8 filed with the Public Employees Retirement Board not less than 15 days be-
9 fore the first day of the month to which the waiver applies.

10 “(2) If for any month the waiver does not apply to the full retirement al-
11 lowance due under this chapter, the waiver applies first to all or the neces-
12 sary portion of prior service pension, then to all or to the necessary portion
13 of current service pension, and then to the necessary portion of annuity.

14 “(3) The waiver may be revoked at any time, but no retirement allowance
15 or other benefit waived for the period of time in which the waiver is in effect
16 shall be paid. The revocation shall be made in writing and filed with the
17 board. If a person dies during the period of time in which the waiver is in
18 effect, the waiver is considered revoked on the date of such death.

19 **“SECTION 58.** ORS 341.551 is amended to read:

20 “341.551. (1) Notwithstanding any provision of ORS chapter 238 or 238A
21 **or sections 1 to 20 of this 2015 Act**, the Department of Community Colleges
22 and Workforce Development may establish and administer an optional re-
23 tirement plan for administrative employees of community college districts
24 who are eligible for membership in the Public Employees Retirement System.
25 Any community college district may participate in the plan by giving written
26 notice to the department.

27 “(2) An administrative employee may make an election to participate in
28 the optional retirement plan if the community college district that employs
29 the employee is participating in the plan. The election must be made in the
30 following manner:

1 “(a) An administrative employee who is an active member of the Public
2 Employees Retirement System may make an election to participate in the
3 plan within 180 days after the community college district commences partic-
4 ipation in the plan, effective on the first day of the month following the
5 election.

6 “(b) An administrative employee who is hired after the community college
7 district commences participation in the plan may make an election to par-
8 ticipate in the plan within the first six months of employment, effective on
9 the first day of the month following six full months of employment.

10 “(3) An administrative employee who does not elect to participate in the
11 optional retirement plan remains or becomes a member of the Public Em-
12 ployees Retirement System in accordance with ORS [*chapters 238 and*]
13 **chapter 238 or 238A or sections 1 to 20 of this 2015 Act.**

14 “(4) An administrative employee may elect to participate in the optional
15 retirement plan only if at the time the election becomes effective the em-
16 ployee is not concurrently employed in a position with any participating
17 public employer other than the community college district in a position that
18 entitles the employee to membership in the Public Employees Retirement
19 System. Except as provided in subsection (9) of this section, employees who
20 elect to participate in the optional retirement plan are ineligible for active
21 membership in the Public Employees Retirement System for as long as those
22 employees are employed by a community college district that participates in
23 the plan, whether by reason of employment by the district or any other par-
24 ticipating public employer.

25 “(5)(a) An administrative employee who elects to participate in the op-
26 tional retirement plan, who has creditable service under ORS chapter 238 as
27 defined by ORS 238.005 and who is not vested shall be considered by the
28 Public Employees Retirement Board to be a terminated member under the
29 provisions of ORS 238.095 as of the effective date of the election, and the
30 amount credited to the member account of the member shall be transferred

1 directly to the optional retirement plan by the Public Employees Retirement
2 Board in the manner provided by subsection (6) of this section.

3 “(b) An administrative employee who elects to participate in the optional
4 retirement plan, who has creditable service under ORS chapter 238 as defined
5 by ORS 238.005 and who is vested shall be considered to be an inactive
6 member by the Public Employees Retirement Board and shall retain all the
7 rights, privileges and options under ORS chapter 238 unless the employee
8 makes a written request to the Public Employees Retirement Board for a
9 transfer of the amounts credited to the member account of the member to the
10 optional retirement plan. A request for a transfer must be made at the time
11 the member elects to participate in the optional retirement plan. Upon re-
12 ceiving the request, the Public Employees Retirement Board shall transfer
13 all amounts credited to the member account of the member directly to the
14 optional retirement plan and shall terminate all rights, privileges and
15 options of the employee under ORS chapter 238.

16 “(c) An administrative employee who elects to participate in the optional
17 retirement plan and who is not a vested member of the pension program of
18 the Oregon Public Service Retirement Plan as described in ORS 238A.115 on
19 the date that the election becomes effective shall be considered to be a ter-
20 minated member of the pension program by the Public Employees Retirement
21 Board as of the effective date of the election.

22 “(d) An administrative employee who elects to participate in the optional
23 retirement plan and who is a vested member of the pension program of the
24 Oregon Public Service Retirement Plan as described in ORS 238A.115 on the
25 date that the election becomes effective shall be considered an inactive
26 member of the pension program by the Public Employees Retirement Board
27 as of the effective date of the election. An employee who is subject to the
28 provisions of this paragraph retains all the rights, privileges and options of
29 an inactive member of the pension program. If the actuarial equivalent of the
30 employee’s benefit under the pension program at the time that the election

1 becomes effective is \$5,000 or less, the employee may make a written request
2 to the Public Employees Retirement Board for a transfer of the employee's
3 interest under the pension program to the optional retirement plan. The re-
4 quest must be made at the time the member elects to participate in the op-
5 tional retirement plan. Upon receiving the request, the Public Employees
6 Retirement Board shall transfer the amount determined to be the actuarial
7 equivalent of the employee's benefit under the pension program directly to
8 the optional retirement plan and shall terminate the membership of the em-
9 ployee in the pension program.

10 “(e) An administrative employee who elects to participate in the optional
11 retirement plan and who is a vested member of the individual account pro-
12 gram of the Oregon Public Service Retirement Plan as described in ORS
13 238A.320 on the date that the election becomes effective shall be considered
14 an inactive member of the individual account program by the Public Em-
15 ployees Retirement Board as of the effective date of the election. An em-
16 ployee who is subject to the provisions of this paragraph retains all the
17 rights, privileges and options of an inactive member of the individual ac-
18 count program. An administrative employee who elects to participate in the
19 optional retirement plan and who is a member of the individual account
20 program of the Oregon Public Service Retirement Plan may make a written
21 request to the Public Employees Retirement Board that all amounts in the
22 member's employee account, rollover account and employer account, to the
23 extent the member is vested in those accounts under ORS 238A.320, be
24 transferred to the optional retirement plan. The request must be made at the
25 time the member elects to participate in the optional retirement plan. Upon
26 receiving the request, the Public Employees Retirement Board shall transfer
27 the amounts directly to the optional retirement plan and shall terminate the
28 membership of the employee in the individual account program.

29 “(f) **An administrative employee who elects to participate in the**
30 **optional retirement plan and who is a member of the Fair Retirement**

1 **Plan under section 6 of this 2015 Act on the date that the election be-**
2 **comes effective shall be considered an inactive member of the Fair**
3 **Retirement Plan by the Public Employees Retirement Board as of the**
4 **effective date of the election. An employee who is subject to the pro-**
5 **visions of this paragraph retains all the rights, privileges and options**
6 **of an inactive member of the Fair Retirement Plan. An administrative**
7 **employee who elects to participate in the optional retirement plan and**
8 **who is a member of the Fair Retirement Plan under section 6 of this**
9 **2015 Act may make a written request to the Public Employees Retire-**
10 **ment Board that all amounts in the member's member account be**
11 **transferred to the optional retirement plan. The request must be made**
12 **at the time the member elects to participate in the optional retirement**
13 **plan. Upon receiving the request, the Public Employees Retirement**
14 **Board shall transfer the amounts directly to the optional retirement**
15 **plan and shall terminate the membership of the employee in the Fair**
16 **Retirement Plan.**

17 “~~[(f)]~~ (g) Notwithstanding paragraphs (b), (d), ~~[and]~~ (e) **and (f)** of this
18 subsection, the Public Employees Retirement Board shall not treat any em-
19 ployee as an inactive member under the provisions of this subsection for the
20 purpose of receiving any benefit under ORS chapter 238 or 238A **or sections**
21 **1 to 20 of this 2015 Act** that requires that the employee be separated from
22 all service with participating public employers and with employers who are
23 treated as part of a participating public employer's controlled group under
24 the federal laws and rules governing the status of the Public Employees Re-
25 tirement System and the Public Employees Retirement Fund as a qualified
26 governmental retirement plan and trust.

27 “(6) Any amounts transferred from the Public Employees Retirement Fund
28 under subsection (5) of this section shall be transferred directly to the op-
29 tional retirement plan by the Public Employees Retirement Board and shall
30 not be made available to the employee.

1 “(7) An employee participating in the optional retirement plan shall con-
2 tribute monthly an amount equal to the percentage of the employee’s salary
3 that the employee would otherwise have contributed as an employee contri-
4 bution to the Public Employees Retirement System if the employee had not
5 elected to participate in the optional retirement plan.

6 “(8) A participating community college district shall contribute monthly
7 to the optional retirement plan the percentage of salary for each employee
8 participating in the plan that is equal to the percentage of salary that is
9 required to be made as the employer contribution under ORS 238A.220, less
10 any contributions made by reason of unfunded liabilities. The district may
11 make contributions under this subsection only during periods of time in
12 which the employee would be eligible for membership in the Public Employ-
13 ees Retirement System if the employee had not elected to participate in the
14 optional retirement plan.

15 “(9) An administrative employee who elects to participate in the optional
16 retirement plan may make an election to withdraw from the plan. An em-
17 ployee may make an election under this subsection only once. Upon with-
18 drawing from the plan:

19 “(a) All contributions made to the plan before the effective date of the
20 withdrawal remain credited to the employee;

21 “(b) The employee becomes a member of the [*Public Employees Retirement*
22 *System under ORS chapter 238A*] **Fair Retirement Plan under sections 1**
23 **to 20 of this 2015 Act** if the member meets all requirements for membership
24 under [*ORS chapter 238A*] **sections 1 to 20 of this 2015 Act**; and

25 “(c) The employee is barred from ever again electing to participate in the
26 optional retirement plan.

27 “(10) For the purposes of this section, ‘administrative employee’ means a
28 president, vice president or dean, or a person holding a position that is the
29 equivalent of a president, vice president or dean.

30 **“SECTION 59.** ORS 352.138, as amended by section 6, chapter 113, Oregon

1 Laws 2014, and section 17, chapter 121, Oregon Laws 2014, is amended to
2 read:

3 “352.138. (1) The following entities are not subject to any provision of law
4 enacted after January 1, 2013, that is unique to governmental entities unless
5 the following entities are expressly named:

6 “(a) A university with a governing board; and

7 “(b) Any not-for-profit organization or other entity if the equity of the
8 entity is owned or controlled exclusively by a university with a governing
9 board and if the organization or entity is created by the university to ad-
10 vance any of the university’s statutory missions.

11 “(2) Notwithstanding subsection (1) of this section, the provisions of ORS
12 30.260 to 30.460, 33.710, 33.720, 200.005 to 200.025, 200.045 to 200.090, 236.605
13 to 236.640, 279.835, 279.840, 279.850 and 297.040 and ORS chapters 35, 190, 192
14 and 244 apply to a university with a governing board under the same terms
15 as they apply to public bodies other than the state.

16 “(3) Except as otherwise provided by law, the provisions of ORS 35.550 to
17 35.575, 180.060, 180.210 to 180.235, 184.305 to 184.345, 190.480, 190.490, 200.035,
18 243.696, 357.805 to 357.895 and 656.017 (2) and ORS chapters 182, 183, 240, 270,
19 273, 276, 278, 279A, 279B, 279C, 282, 283, 291, 292, 293, 294, 295 and 297 do not
20 apply to a university with a governing board.

21 “(4) Notwithstanding subsections (1) and (3) of this section, ORS 240.167,
22 279C.600 to 279C.625, 279C.800, 279C.810, 279C.825, 279C.830, 279C.835,
23 279C.840, 279C.845, 279C.850, 279C.855, 279C.860, 279C.865, 279C.870 and
24 292.043 apply to a university with a governing board under the same terms
25 as they apply to public bodies other than the state.

26 “(5) Notwithstanding subsection (2) of this section, ORS 190.430 and
27 192.105 do not apply to a university with a governing board or any organ-
28 ization or other entity described in subsection (1) of this section.

29 “(6) Except as set forth in subsection (3) of this section, ORS 243.650 to
30 243.782 and 276.073 to 276.090 and ORS chapters 238 and 238A **and sections**

1 **1 to 20 of this 2015 Act** apply to a university with a governing board under
2 the same terms as they apply to the state.

3 “(7) ORS 351.065, 351.067, 351.642, 351.643, 351.644, 351.646, 351.656, 351.658,
4 352.012 and 352.375 apply to a university with a governing board, except that
5 the board or university shall exercise the responsibilities and authorities of
6 the State Board of Higher Education, the Higher Education Coordinating
7 Commission or the Oregon University System.

8 “(8) A university with a governing board and its agents and employees
9 remain subject to all statutes and administrative rules of this state that
10 create rights, benefits or protections in favor of military veterans, service
11 members and families of service members to the same extent as an agency
12 of this state would be subject to such statutes and administrative rules.

13 “(9) ORS 351.692, 351.695 and 351.697 apply to a governing board, except
14 that the board has the responsibilities and authorities with respect to the
15 university it governs that the State Board of Higher Education and the
16 Oregon University System have with respect to the public universities iden-
17 tified in ORS 351.011. A university with a governing board may not issue a
18 tax credit certificate under ORS 351.692, 351.695 and 351.697 that will cause
19 the public universities listed in ORS 352.002 to owe the General Fund more
20 than \$6 million at any one time under ORS 351.692, 351.695 and 351.697.

21 “(10) If state bonds are issued for the benefit of a university with a gov-
22 erning board, the university shall have the powers and duties of a related
23 agency, as defined in ORS 286A.001, to the extent necessary for the issuance
24 of the state bonds and the administration of the proceeds of the state bonds.

25 “(11) If state bonds are issued for the benefit of a university with a gov-
26 erning board under Article XI-Q of the Oregon Constitution, the university
27 shall have the powers and duties of a project agency, as defined in ORS
28 286A.816, to the extent necessary for the issuance of the state bonds and the
29 administration of the proceeds of the state bonds.

30 “(12) Nothing in this section may be construed so that statutory pro-

1 visions that are not set forth in this section apply to a university with a
2 governing board.

3 **SECTION 60. ORS 238.750 is repealed.**

4

5 **“CAPTIONS**

6

7 **SECTION 61. The unit and section captions used in this 2015 Act**
8 **are provided only for the convenience of the reader and do not become**
9 **part of the statutory law of this state or express any legislative intent**
10 **in the enactment of this 2015 Act.**

11

12 **“EMERGENCY CLAUSE**

13

14 **SECTION 62. This 2015 Act being necessary for the immediate**
15 **preservation of the public peace, health and safety, an emergency is**
16 **declared to exist, and this 2015 Act takes effect on its passage.”.**

17
